

17 MARCH 1948

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1 Wednesday, 17 March 1948

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 Appearances:

12 For the Tribunal, all Members sitting, with
13 the exception of: HONORABLE JUSTICE E. STUART
14 McDOUGALL, Member from the Dominion of Canada and
15 HONORABLE JUSTICE I. M. ZARYANOV, Member from the
16 USSR., not sitting from 0930 to 1200; HONORABLE
17 JUSTICE B. V. A. ROLING, Member from the Kingdom of
18 the Netherlands, not sitting from 100 to 1200.

19 For the Prosecution Section, same as before.

20 For the Defense Section, same as before.

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except HIRANUMA, HIROTA, SHIRATORI, and UMEZU, who are
5 represented by counsel. The Sugamo prison surgeon
6 certifies that they are ill and unable to attend the
7 trial today. The certificates will be recorded and
8 filed.

9 Captain Brooks.

10 MR. BROOKS: I resume reading, if your Honors
11 please, at the bottom of page 113, paragraph 11:

12 11. Thus, the prosecution exhibit 286
13 definitely established the fact that on or around
14 November 1, 1931, MINAMI was in complete agreement with
15 SHIDEHARA's views that to form an independent State would
16 cause a great dispute under the Nine Power Pact and that
17 to restore Pu Yi to his throne was an anachronism.
18 Actually, MINAMI himself was opposing such a scheme.

19 This fact is corroborated by exhibit 3433,
20 affidavit of Patrick J. Hurley, Secretary of War for
21 the United States in 1931 and who was in the Far East
22 at the time of the Manchurian Incident. Hurley deposed
23 that around the middle of October he met MINAMI in Tokyo
24 who told him (a) that Liu' t'iaukou Incident occurred
25 as a result of the destructive action by Chinese troops,

to which the Japanese took action in exercise of the
1 legitimate right of self-defense, (b) that the Govern-
2 ment was doing its best to localize the incident, (c)
3 that Japan had never at any time conceived of the idea
4 of annexing Manchuria or to make it a protectorate or
5 even to assist in its independence, and (d) that MINAMI
6 supported this policy of the WAKATSUKI Cabinet which
7 was to remain within the principles of the Nine Power
8 Pact, to limit the effect of the Mukden Incident and to
9 maintain friendly relations with the League of Nations
10 (pp. 32,885 - 32,889.)

12 In the light of these irrefutable evidence,
13 the total fallacy of the HARADA Memoirs is clearly ex-
14 posed. HARADA reports that at the Cabinet meeting of
15 October 1st, MINAMI opposed to SHIDEHARA's opinion and
16 proposed the withdrawal from the League of Nations (Ex.
17 3760-A, pp. 37,589 - 37,590) and also that at the
18 Cabinet meeting of October 22nd, MINAMI advocated the
19 secession from the League and the determination to wage
20 war against the whole world (Ex. 3761-A, p. 37,592.)
21 SHIDEHARA categorically denied these allegations (pp.
22 33,656-33,658, see Part I, par. 6 above) and Ex. 299, a
23 telegram of November 15, 1931, from MINAMI to HONJO will
24 prove MINAMI's deference to the League of Nations and
25 the Nine Power Treaty (see par. 13 below.)

12. Now, reports of November 2nd from MURAI
1 (Consul-General at Shanghai, Ex. 288, pp. 4,362-4,363)
2 and from KUWASHIMA (Ex. 289, pp. 4,363-4,369; Ex. 291,
3 pp. 4,373-4,374, language corrections at pp. 36,166-
4 36,167) of the 4th from KUWASHIMA (Ex. 292, pp. 4,375-
5 4,376) of the 12th from KUWASHIMA (Ex. 293, pp. 4,377,
6 language corrections at pp. 36,167-36,168) and from
7 HAYASHI (Ex. 2196, pp. 15740-D) of the 13th from
8 ARAKAWA (Consul-General at Yinkow, Ex. 294, pp. 4,379-
9 4,380) from KUWASHIMA (Ex. 295, pp. 4,381-4,383,
10 language corrections at pp. 36,168-36,170; and Ex. 296,
11 pp. 4,384-4,386) from HAYASHI (Ex. 297, pp. 4,387-4,388)
12 and from YAMAZAKI (Deputy Consul at Liaoyang, Ex. 298,
13 pp. 4,389-4,390) and of the 17th from KUWASHIMA (Ex.
14 300, pp. 4,394-4,398) deal mostly with DOHIHARA's com-
15 plicity in the escape of Pu Yi from Tientsin to Manchuria.
16

17 On the other hand, we have the evidence that on
18 November 11th, SUGIYAMA (Vice-Minister of War) wired to
19 MIYAKE (Chief of Staff, Kwantung Army) enquiring what
20 kind of duty DOHIHARA was assigned to do in Tientsin and
21 what arrangement was made with the China garrison as to
22 his scope of work, and cautioning the Kwantung Army not
23 to infringe upon the jurisdiction of the China garrison
24 and in future to inform the War Ministry of the duties
25 of any person to be sent to North China (Ex. 3429, pp.

32,861 - 32,862.)

1 Note: (1) Ex. 3429 says: "Happening to hear
2 that Colonel DOHIHARA is presumably carrying on
3 activities in Tientsin, we should like to know ----"
4 (p. 32,861.) According to KATAKURA's testimony, on
5 October 1st, there was a sudden communication from the
6 Tientsin garrison that Pu-Yi was willing to go to Man-
7 churia, if he had the support of 30 million people of
8 Manchuria and of the Japanese Army. About that time
9 Chin-Lioa, a central figure in the Liaoning Peace and
10 Order Maintenance Committee, was reported to have gone
11 with the aim of carrying on a movement to bring Pu-Yi
12 to Manchuria (Ex. 289 refers to Chin-Lioa as Chin-
13 Liang, p. 4,364, language corrections at p. 36,165.)
14 In the latter part of October, DOHIHARA was dispatched
15 to Tientsin at the personal will of HONJO without connec-
16 tion whatever with Tokyo, to collect intelligence of
17 that area, to study proper measures in the event of re-
18 treat of the Chang Regime to the South, to observe the
19 possible attitude of Chinese generals in such a case and
20 to sound out what kind of feeling Pu-Yi entertained on
21 his return to Manchuria. Around the first part of
22 November, DOHIHARA reported that Pu-Yi would like to go
23 to Manchuria as soon as possible, that Pu-Yi himself
24 wished to settle Ma Chan-Shan's problem, to obtain the
25

1 popular support by his presence and to establish his
2 government in Kirin, and that Consul-General KUWASHIMA
3 was opposed to the matter. MIYAKE, Chief of Staff,
4 instructed DOHIHARA to put it off, but immediately
5 thereafter, DOHIHARA reported again that Pu-Yi wanted to
6 cross the Liao River before it froze (pp. 18,968 -
7 18,972.)

8 In view of the above evidence it may be easily
9 inferred that DOHIHARA's activities in Tientsin were
10 kept strictly secret at least from the officials of the
11 War Ministry, as their opposition to the independence
12 movement and to the restoration of Pu-Yi was well known
13 to the Kwantung Army. When MINAMI became aware of the
14 matter, Pu-Yi had already landed at Yinkow.

15 Note: (2) On November 12th, HAYASHI was told
16 by HONJO that the latter not only had heard nothing
17 about Pu-Yi's coming to Manchuria, but even had ITAGAKI
18 notify the Tientsin Garrison several days ago not to
19 hurry about the matter. HONJO promised HAYASHI to
20 exert efforts so as not to start upon any immediate
21 movement. (Ex. 2196, pp. 15,740 - 15,741.) On the 13th
22 HAYASHI was informed by HONJO of Pu-Yi's arrival at
23 Yinkow (Ex. 297, pp. 4,387 - 4,388.)

24 Note: (3) According to MINAMI's testimony,
25 he was informed of the two riots in Tientsin, but not

~~of DOHIHARA's activities. Around that time, not one~~

1 single telegram was sent around to MINAMI from the
2 Foreign Office (p. 19,904.) He knew that DOHIHARA was
3 in Tientsin sometime in November. However, as DOHIHARA
4 would have been dispatched by order of the commanding
5 general and belonged to a different chain of command,
6 there would be no case of a report coming to the atten-
7 tion of the War Minister (pp. 19,906 - 19,907, see par.
8 15, Note (2) below.) He received the report that Pu-Yi
9 at his own desire arrived at Yinkow on or about November
10 11th (p. 19,909.) He did not make enquiries as to the
11 truth of rumors about DOHIHARA, but realizing that such
12 a thing should not be tolerated or be made to happen, he
13 sent in November additional instructions to HONJO over
14 and above those sent in September (p. 19,913.) He
15 instructed HONJO not merely that Pu-Yi's appearance in
16 Manchuria should be postponed because the time was pre-
17 mature, but that it should not be done at all (pp.
18 19,114 - 19,115.) This testimony must be read in con-
19 junction with exhibit 286 (see par. 11, preceding) and
20 exhibit 299 (see par. 13, succeeding.)

22 Note: (4) According to SHIDEHARA's testimony
23 he did not discuss with MINAMI whether or not it was
24 premature in October and November, 1931, to have an
25 independent Manchuria established under Pu-Yi. SHIDEHARA

also thought that it was not only premature but was altogether wrong (pp. 33,647 - 33,648.)

13. The prosecution exhibit 299, a telegram from MINAMI to HONJO under date of November 15, 1931, shows MINAMI's reaction upon the news of Pu-Yi to the following effect: (a) his unexpected appearance in Manchuria would arouse suspicion of the world upon the intention of the Army, inflicting injury upon the fair attitude of Japan which MINAMI and others had hitherto upheld, (b) to commit such hasty actions was by no means a wise policy at the time when the atmosphere of the League of Nations was showing signs of improvement, (c) HONJO should have Pu-Yi in no way connected with political problems, (d) if Japan took a wrong step, the United States and other Powers would intervene on the basis of the Nine Power Treaty, (e) MINAMI was deliberating in conjunction with the Foreign Ministry what would be the proper measure to take, and (f) although the Foreign Ministry was considering the future leadership of Pu-Yi through the wish of the Manchurian people, such a decision should be made by maintaining a close connection with the central Government and in concert with the world situation (pp. 4,391 - 4,393.)

In this telegram, we can clearly see his surprise and vexation towards the rash act of the Kwantung Army,

his desire to improve the relationship with the League
1 and the signatory Powers of the Nine Power Treaty, and
2 his unceasing co-operation with the Foreign Ministry.

3 Note: (1) The above evidence will entirely
4 refute the prosecutor's suggestions based on the
5 HAPADA Memoirs, such as, on or shortly before October
6 22nd, MINAMI said at a Cabinet meeting that there was
7 no need to pay any deference to the League of Nations
8 and that should Japan be determined to wage war against
9 the whole world, secession from the League could be
10 readily done (pp. 19,862 - 19,863) or on October 8th,
11 he evaded to answer WAKATSUKI's request, on the ground
12 of the Nine Power Treaty, to stop the Army's assistance
13 in setting up an independent government in Manchuria
14 (p. 19,883 - 19,884, see par. 11, above.)

16 However, no matter how he felt with regard to
17 the appearance of Pu-Yi in Manchuria, MINAMI could not
18 make him go back to Tientsin, as the question of Pu-Yi's
19 visit either to Japan or to Port Arthur had been pending
20 since November, 1924, when he took refuge in the Japanese
21 Legation in China (Ex. 2384, Foreign Minister TANAKA's
22 instruction of June 17, 1929, to Consul General KATO at
23 Tientsin, p. 19,145) and had been decided in its favor,
24 if Pu-Yi would be satisfied with the same treatment as
25 that given to ordinary political refugees of China

1 (ditto, p. 19,150.) All MINAMI could do was, therefore,
2 to ask that Pu-Yi in no way became connected with
3 political affairs.

4 Note: (2) Pu-Yi's desire at that time to
5 establish Sino-Japanese friendship is manifested by his
6 letter of November 1, 1931, to MINAMI (Ex. 278-A, pp.
7 20,212 - 20,213.) This letter has been proved to be in
8 Pu-Yi's own handwriting (Ex. 2440 and 2440-A, affidavit
9 of TAKAMURA; Ex. 2441, affidavit of NANAMI.) On the
10 other hand, MINAMI testified that it was the policy of
11 the WAKATSUKI Cabinet not to connect itself with any
12 movement or plans either in Manchuria or in Tientsin
13 and that he did not place his trust in accepting any-
14 thing from a former Emperor with whom he had no previous
15 occasion to meet (pp. 19,898 - 19,899.)

16 Note: (3) According to KATAKURA's testimony,
17 because of strict instructions from Tokyo, the Kwantung
18 Army had decided to take Pu-Yi to Port Arthur for the
19 purpose of segregating him from various factions
20 interested in him. He was placed at the Yamato Hotel,
21 Port Arthur, under protection of the Administrative
22 Office of the Kwantung Leased Territory. Although inter-
23 views with the Japanese were prohibited, those with Man-
24 churia were free so long as no personal harm would be
25 caused upon him. Chang Hai-peng of Taonan made a

monetary presentation of 200,000 yuan to Pu-Yi and sent an emissary to welcome him. Lao Tan-yan and Ling Sheng of Kulubar called on him at Port Arthur (pp. 18,975 - 18,976.)

Note: (4) Ex. 301, report of November 22nd from TSUKAMOTO, Governor of the Kwantung Leased Territory, stated that he had no objection to Pu-Yi's coming to Port Arthur. Ex. 302, report of November 22nd from ARAKAWA, Consul-General at Yinkow, stated that Pu-Yi was moved by the Army to Port Arthur as he was bothered by a large number of undesirable visitors (p. 4,400.)

Note: (5) Ex. 303, of November 26th from YANO, Councillor at Peiping, and Ex. 304, of November 27th from KUWASHIMA, reported the departure of the Empress from Tientsin for Dairen (pp. 4,401 - 4,402.)

14. During and following the time the isolation of Pu-Yi from political intrigues was being secured, MINAMI had to attend to more pressing and more troublesome matters, that is to say, unstable conditions of peace and order in Manchuria, on account of the rampancy of bandits and the rivalry among local war lords, the foremost being the Nonni Bridge question, which originated from the destruction of railway bridges over the Nonni River by Ma Chan-shan's troops in the middle of October and necessitated drawn-out negotiations through both

consular and military services on the spot. (Ex. 57,
1 pp. 72-74; TAKEDA, Ex. 2405, pp. 19,338 - 19,351.)

2 On November 16th, KANAYA (Chief of General
3 Staff) gave permission to HONJO for an operation against
4 Ma Chan-shan, limiting it, however, to the minimum
5 really necessary for self-defense (Ex. 3422-L, pp.
6 32,862 - 32,863.) On November 24th, KANAYA ordered
7 HONJO to evacuate Tsitsihar, irrespective of any cir-
8 cumstances in line with the established policy (pp.
9 32,863 - 32,864.) On November 27th, KANAYA further
10 ordered HONJO not to take any operational action to the
11 west of the Liao River (Ex. 3422-N, p. 32,864) thereby
12 effecting the withdrawal of Japanese troops from the
13 vicinity of Chinchow to Hsinmin, "to the great surprise
14 of the Chinese" (Ex. 57, p. 77.) MINAMI and KOISO
15 testified that these evacuations in conformity with the
16 non-expansion policy of the Government were the result
17 of MINAMI's effort in prevailing upon KANAYA (Ex. 2435,
18 pp. 19,787 - 19,789; Ex. 3375, p. 32,219) the fact which
19 is corroborated by the prosecution exhibit 190, telegram
20 of November 24, 1931, from Forbes (U. S. Ambassador in
21 Japan) to Stimson (Secretary of State) as follows:
22 "The attitude of the Foreign Minister was wholly con-
23 ciliatory and cordial. He made the statement that the
24 Premier, the Minister of War, the Chief of Staff, and he
25

are agreed that towards Chinchow there shall be no
1 hostile operations, and orders have been issued to
2 that effect. . .The retention of troops at Tsitsihar,
3 he states, has no political significance. . .The neces-
4 sity for collecting and caring for the sufferers. . .
5 a matter of days. . .is the reason for the delay. . .
6 says he is also in complete agreement with the officers
7 of the War Department in the policy of this evacuation
8 . . ." (pp. 2,246 - 2,247.)
9

10 In this connection MINAMI testified: "About
11 this time, the annual army maneuvers were held in
12 Kyushu under the personal supervision of the Emperor.
13 Although the War Minister had to accompany His Majesty,
14 I remained in Tokyo with the Imperial permission as I
15 had to attend to the ever-changing situation both at
16 home and abroad, and exerted my best efforts to prevent
17 the expansion of conflict; in close collaboration with
18 the Government as well as the Supreme Command. I still
19 remember that when we succeeded in preventing the advance
20 of the Kwantung Army to Chinchow, the Prime Minister and
21 I, just the two of us together, drank a toast congratu-
22 lating ourselves on our success at the Premier's official
23 residence. Such being the case, I can state with the
24 utmost confidence that at least while I was War Minister,
25 there absolutely never was issued a false assurance or a

breach of international agreements committed, although
1 because of the rapidly changing situation in Manchuria,
2 the statements of the Japanese Government and the actual
3 conditions on the spot were inverted in point of time
4 and therefore were confused" (Ex. 2435, pp. 19,789 -
5 19,790.)

6 Note: (1) According to WAKATSUKI's testimony,
7 he was shown maps daily on which MINAMI would show by a
8 line a boundary which the Army would not go beyond, but
9 almost daily this boundary line was ignored and further
10 expansion was reported, always with assurances that this
11 was the final move. (Ex. 162, p. 1,556.) MINAMI affirms
12 the above statement (p. 19,831.) He spoke with sincer-
13 ity when he told the Cabinet that he was going to stop
14 HONJO. (p. 19,834.)

15 Note: (2) According to NAKAMURA's affidavit:
16 "Subsequently, a gap took place between the Cabinet
17 policy of non-enlargement and local settlement of the
18 incident and the movements of the army situated there
19 whose actions were governed by strategy, and as a result
20 of which the War Ministry, that is, the War Minister
21 found himself in a very difficult situation. This was
22 because strategic operations were under the control of
23 the Military Command of the Chief of the General Staff
24 and outside the authority of the War Minister." (Ex.
25

3413, pp. 32,806 - 32,807.)

1 15. Under the circumstances above-mentioned,
2 it is obvious that the main effort of MINAMI as War
3 Minister was directed towards the prevention of the
4 spreading of hostilities and the withdrawal of troops
5 as soon as and whenever possible. He was pressed hard
6 to do so not only by the Cabinet but by the League of
7 Nations and the United States, while attacked for being
8 too passive both by the army on the spot and by the
9 people at home. (MINAMI, Ex. 2435, p. 19,779.) His
10 position at that time was certainly not enviable.
11

12 Legally speaking, he had the power to supervise
13 the Kwantung Army in matters of personnel, discipline,
14 morale and expenditures, (MINAMI, p. 20,054) but
15 practically even such matters could not be disposed of
16 at his discretion in these days, without first obtaining
17 the approval of the Chief of General Staff, because it
18 was the time of an "incident" and the Kwantung Army,
19 having been placed in an operational disposition, was
20 under the exclusive control of the Chief of the General
21 Staff. It may be true that MINAMI could have recalled
22 HONJO, if he had wanted to, (p. 19,918) but then he must
23 have obtained KANAYA's consent before taking such a step.
24 If KANAYA did not agree, MINAMI could still have appealed
25 to the Emperor. Yes, theoretically that is so. However,

1 the only result thereof would have been the total dis-
2 ruption of the Government and the Supreme Command, and
3 neither MINAMI nor any Japanese under the old Constitu-
4 tion would have dreamed of committing such an audacity.

5 Note: (1) According to FUJITA's testimony,
6 since 1890, the interpretation of the Constitution was
7 that ministers of state had no responsibility with
8 respect to the Supreme Command and in March, 1925, the
9 Government made a declaration in the House of Peers that
10 Article 55 of the Constitution did not apply to the
11 Supreme Command. (pp. 17,553 - 17,554.)

12 Note: (2) Even theoretically speaking, the
13 War Minister could not have recalled staff officers of
14 the Kwantung Army, whether in peacetime or otherwise,
15 without the consent of the Chief of General Staff.
16 Article 1 of the Regulations for the Organization of the
17 War Ministry (Ex. 74) states that the War Minister
18 supervises the military administration of the Army,
19 ". . .while Article 3 of the Regulations of the General
20 Staff (Ex. 78) provides that the Chief of General Staff
21 supervises those military officers who occupy the posts
22 of staff. . ."(see Section 2, par. 2, Note (4) above.)
23 It is definitely a mistake to say that the Japanese War
24 Minister had "over-all authority." (p. 19,910.)
25

We do not wish to indulge in moot questions,

1 but we shall take one more instance. Supposing that
2 MINAMI and KANAYA had agreed and recalled HONJO and
3 others, would it have made any difference in the situ-
4 ation on the spot? Indeed, it might have, in the sense
5 that the Chinese side could widely advertise the dis-
6 grace of the general, increasing the activities of ir-
7 regular forces and bandits, thereby resulting in the
8 wholesale crash between China and Japan. The prosecutor,
9 when he suggested to MINAMI to control the actions of
10 the Kwantung Army by denying expenditures or by recall-
11 ing its responsible officers, forgot entirely the most
12 important fact that the Sino-Japanese tension, which had
13 been exploded by the Mukden Incident, could not have
14 been settled by such a step on the part of Japan alone.

15 16. Now, to return to MINAMI's way of think-
16 ing, he "did not recognize the need" of taking any
17 disciplinary measures, because he believed that HONJO
18 too was doing his best to abide with the Government
19 policy of non-expansion. As a matter of fact, during
20 MINAMI's tenure of office, the troops were always with-
21 drawn after an operation to original positions, even to
22 the detriment of the local peace and order.

23 Note: (1) "The districts evacuated by the
24 Japanese were reoccupied by the Chinese troops, and this
25 fact was widely advertised. Chinese morale was slightly

1 raised; and the activities of irregular forces and
2 bandits increased. Profiting by the winter season,
3 they crossed the frozen Liao River at many points and
4 raided the country around Mukden." (Ex. 57, p. 77.)

5 Although MINAMI was very much surprised and
6 vexed by HONJO's commitments to the new regime movement
7 and Pu-Yi's appearance in Manchuria, MINAMI honestly
8 believed that HONJO was acting for the good of and by
9 the wish of the Manchurian people.

10 HAYASHI's telegram of November 7th, reported
11 that as the result of pressure brought by the Army, the
12 Local Peace Preservation Committee decided to add to
13 the decree (for the establishment of the Liaoning
14 Provincial Government ad interim, see Ex. 57, p. 89)
15 the words purporting the severance from Chang Hsueh-
16 liang's regime and the National Government (Ex. 3479-J,
17 p. 33,623) but why should MINAMI accept such an
18 allegation without verification? There were numerous
19 unbelievable rumors, mostly originated from the Foreign
20 Office circles, for instance, that Commander HONJO was
21 in a state of restriction to quarters and nobody could
22 approach him. According to SHIDEHARA, it was "an open
23 secret." (p. 33,644.) However, if true then, how could
24 Consul-General HAYASHI have seen HONJO on so many
25 occasions and report their conversations so freely?

1 (Ex. 2194, pp. 15,736-15,738; Ex. 2196, pp. 15,740-
2 15,741; Ex. 297, pp. 4,387-4,388.)

3 Also, on the other hand, investigations con-
4 ducted by Colonel ANDO and Major-General HASHIMOTO
5 respectively in September, by General SHIRAKAWA in
6 October and by Lieutenant-General NINOMIYA in November,
7 all reported that the army on the spot was abiding by
8 the policy of the Government. (MINAMI, pp. 20,060-
9 20,062.) Which side should MINAMI have believed:
10 Rumors from consuls based on hearsay or official
11 reports cited, after investigations thereon?

12 A most important fact of MINAMI's defense is
13 that the time between the outbreak of the Mukden Inci-
14 dent on September 18th and the resignation of the
15 WAKATSUKI Cabinet and himself on December 10th amounted
16 only to 83 days, that is to say, less than 3 months.
17 During that period, he was overwhelmed by trying to co-
18 ordinate the Government policies of the Cabinet, with
19 the actions of the General Staff and to secure support
20 of public opinion at home and from the League of Nations
21 and the United States abroad. He had no time to give
22 much importance even to the ex-Emperor's letter. (p.
23 19,900.) How could he make enquiries into such details
24 as how the Self-Governing Guiding Board was established
25 and who was operating it? (p. 19,895.)

Note: (2) Ex. 3377, letter of December 5, 1931, from MIYAKE to SUGIYAMA states: (a) "the various Chinese regimes at the present are dependent solely upon the Japanese Military and are already in the midst of various constructions to a considerable degree," (b) "it will be most logical for the Army to newly establish a governing section in the present organ and for the various organs in Manchuria to give it lateral support," (c) "if a new government is established, its guidance will be carried out by an advisory body," and (d) "it will be advantageous for the Army Headquarters and others to merge with the Government General described in a separate book." (pp. 32,340 - 32,341.)

This letter was received by the War Ministry on December 9th, one day prior to the resignation of MINAMI. (p. 32,453.) KOISO testified that there was nothing by way of seals affixed or otherwise as was customary to indicate that the War Minister or the Vice-Minister or the Chief of Military Affairs Bureau had seen this document. (p. 32,454.) Furthermore, there is no evidence that such a plan was approved or accepted by anybody in the Government at Tokyo.

Note: (3) According to INUKAI's testimony, around December, 1931, there still existed an opinion within the General Staff and the War Ministry that

Manchurians should not establish an independent state.

1 In January, 1932, following personal shifts within the
2 army, this opinion ceased, and the great majority of the
3 army were convinced that Manchurians should be allowed
4 to establish a separate state. (p. 1,548, 1,526 -
5 1,527.)
6

7 17. According to exhibit 2205-A, Minutes of
8 the Privy Council of December 9th, 1931, MINAMI
9 reported to the Council (a) that an order was issued on
10 November 27th to withdraw troops to a position east of
11 Hsinmin, (b) that there was no necessity for any strong
12 offensive action, because if Japan so demanded, the
13 Chinese would evacuate Chinchow and (c) that perhaps
14 this might have led to the newspaper report of an
15 agreement between the Chief of General Staff, the War
16 Minister and the Foreign Minister not to attack Chin-
17 chow. (p. 15,765.) According to MINAMI's testimony,
18 he heard from SHIDEHARA that the Chinese would evacuate
19 Chinchow as a result of negotiations between Japan and
20 China. He was not telling the Council that the news-
21 paper reports that there would be no attack on Chinchow
22 were untrue. He was the author of the proposal that
23 Japan must not attack Chinchow and requested the Chief
24 of General Staff to withdraw troops near Chinchow.
25 (p. 19,836 - 19,837.) Evidence mentioned in paragraph 14

1 above will definitely show that there was no contradic-
2 tion between his statements and his actions throughout
3 the matter. (p. 19840.)

4 To Councillor EGI's question whether or not
5 Japan was losing general confidence as a result of
6 continually taking action under the pretext of self-
7 defense, MINAMI replied that he did not wish to give the
8 impression to foreign countries that Japan had attacked
9 Manchuria and Mongolia (pp. 15,765 - 15,766) because
10 such was not the fact. According to MINAMI's testimony,
11 he thinks that EGI's question was most natural because
12 he himself at no time wanted the expansion of military
13 actions. However, he does not agree with EGI that self-
14 defense was only a pretext. (pp. 19,838 - 19,839.) To
15 Councillor SAKURAI's remark that after the bombing of
16 Chinchow, Japan quickly lost the confidence of the
17 League of Nations, MINAMI replied that he too considered
18 it regrettable. (p. 15,766.) These statements of
19 MINAMI show nothing but his agreement with the world's
20 opinion.
21

22 On the next day, December 10th, he together
23 with the other members of the Cabinet, submitted his
24 resignation to the Throne.

25 18. According to MINAMI's testimony, at the
time when Chinchow was occupied by the Kwantung Army on

1 January 3, 1932, he was in Manchuria on an inspection
2 tour. He believed that this occupation was necessitated
3 by the state of the enemy, but utterly contrary to his
4 policy. However, he had no say in this matter. On his
5 return from the Manchurian tour, he made a report to
6 War Minister ARAKI and told him that the occupation of
7 Chinchow was contrary to the policy which HINAMI set up,
8 but all ARAKI could do was to listen. (p. 19,922 -
9 19,923.)
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1 In this connection, let us consider the
2 result of MINAMI's work during the hectic 83 days
3 from September 18th to December 10th, 1931. He did
4 his level best to localize the Mukden Incident, to
5 stop the crossing of border by the Korean Army, to
6 suspend the dispatch of troops to Harbin, Chientao
7 and Chinchow and to prohibit the Japanese participation
8 in any political movement in Manchuria. His primary
9 aim as the War Minister was to put the Governmental
10 proclamation of September 24th into effect (SHIDEHARA,
11 p, 33,640; see Para. 8 above). However, all his
12 expectations were shattered, all his efforts came to
13 naught, by the inevitable succession of explosions
14 of a long pent-up antagonism between China and Japan.
15 He fought against the force majeure and had to acknowledge
16 his defeat by resignation.

17 As soon as he was relieved from his office,
18 MINAMI made a hurried trip to Manchuria to verify the
19 actual state of things there, for he was sincerely
20 anxious about the rumors which had been afloat since
21 the beginning of the Incident. MINAMI testified: "When
22 I went, of course, I did not know how things would
23 develop in Manchuria, so I had no idea that Manchuria
24 would become an independent state. When I met HONJO,
25 I told him once again, as I had already done in orders

1 sent previously, that the army must not be involved
2 in the independent movements at all" (p. 19,933).

3 Then, he interviewed Hsi Hsia, Sun Chi-Chan,
4 Tsang Shih-I, Hsieh Chieh-Shih and many other leaders
5 in Kirin, Harbin and Taonen (MINAMI, pp. 19,933-19,934)
6 and found that Manchuria was far more advanced than
7 he had supposed when he was in Tokyo (p. 19,932).
8 He became convinced of the ardent desire and long
9 cherished aspirations of the Manchurians for
10 independence and of their capacity of realizing such
11 independence, irrespective of the presence or absence
12 of Japanese troops. As MINAMI knew that the amount
13 of money approved by the Cabinet for the use of the
14 Kwantung Army would barely suffice to maintain its
15 own soldiers, there could have been no buying-up
16 of so many pro-Japanese enthusiasts in such a short
17 time, in contrast to any political movement in China
18 proper. He talked with HONJO and officers of the
19 Kwantung Army, and believed in their words that the
20 action on the night of September 18th-19th was for
21 the sole purpose of self-defense and the subsequent
22 measures were nothing but for maintenance of law and
23 order in a disorganized country and taken on the
24 request of local inhabitants. Even Consul-General
25 HAYASHI told him no such thing as the fomentation of

independence movements by the Kwantung Army (p. 19,934-
1 19,935). During his tour of two weeks, many of his
2 apprehensions were thus dissolved.

3 After having seen by his own eyes the actual
4 state of affairs on the spot, he could not but revise
5 his opinion and take into consideration the possibility
6 of the Manchurian independence, which he had been
7 rejecting strenuously while at the post of War Minister.
8 He was finally led to believe that the protection
9 of Japan's rights in Manchuria would not be adequate
10 in future, except on the basis of presumption that
11 Manchuria might become independent (p. 19,938). On
12 this basis, indeed, he spoke at the Imperial tea party
13 of January 28th, 1932, about his impressions on the
14 latest situation in Manchuria (Ex. #2251, pp. 19,924-
15 19,925; MINAMI pp. 19,938-19,939). .

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17 Note: (1) According to Ex. #2251, KIDO's
18 Diary, MINAMI spoke on January 28th, 1932, about his
19 impressions on the latest situation in Manchuria
20 before the Emperor, giving his conclusions to the
21 following effect: (a) in the matter of national
22 defense, to take over the defense of the new state
23 and, by expediting the completion of the Kirin-Kainei
24 Railway, make the Sea of Japan into a lake and facilitate
25 Japan's advance into North Manchuria area, (b) in the

1 matter of Japan-Manchuria joint management, to take
2 concrete measures against economic blockade from
3 abroad, and (c) in the matter of solution of
4 population problem to give emigrants in Manchuria
5 the same protection as emigrants received in South
6 America and to establish a colonial trooping system
7 (pp. 19,924-19,925).

8 Note: (2) According to MINAMI's testimony,
9 he attended this discussion group at the Imperial
10 tea party, not as a Supreme War Councillor, but as a
11 private individual (p. 19,928). It was his hope that
12 the waters of the Japan Sea would always be as calm
13 as those of a lake (p. 19,935). By the completion
14 of the Kirin-Kainei Railway, the stability of Manchuria
15 would be ensured, thus contributing to the national
16 defense of Japan against a possible enemy (p. 19,937).
17 The basis of his idea was the stabilization of Manchuria
18 and not its occupation (p. 19,938). By a colonial
19 trooping system, he meant the Chinese system of each
20 hamlet maintaining its own soldiers against bandits.
21 He did not mean that the colonists were to be reservists
22 of the army. As a matter of fact, they were not
23 (p. 19,939).

24 Note: (3) It is apparent that his theory
25 of national defense above expounded is nothing but

1 an imitation of Chamberlain's interpretation of self-
2 defense in reference to the Kellogg-Briand Pact.

3 Chamberlain said: "Their (certain regions of the
4 world the welfare and integrity of which constitute a
5 special and vital interest for the British peace and
6 safety) protection against attack is to the British
7 Empire a measure of self-defense" (Ex. #2314-A, p.
8 17,366; see Part I, para. 3. above). It must be remembered
9 that this Pact of 1928 was concluded 6 years later
10 than the Nine-Power Treaty of 1922.

11 Section 5. Manchukuo Questions.

12 1. After MINAMI handed in his resignation
13 on December 10th, 1931 (p. 19,918), he was given
14 the obscure post of military councillor, which had
15 nothing to do except to assemble about twice a year
16 to hear lectures given by the military authorities
17 (Ex. #2435, p. 19,790).

18 Also, it was not proper for him, as a member
19 of the former Government, to touch upon political
20 matters when the Government and the policies had changed
21 (p. 19,923). He spoke to the Emperor at the Imperial
22 tea party of January 28th, 1932, "of his impressions
23 resulting from his inspection of the general situation
24 in Manchuria" (Ex. #2251, p. 19,924), but that was
25 the only occasion of his expression of views upon

current topics. For full three years thereafter,
1 he devoted his time as tutor to the young Prince
2 Kan-In and paid little attention to the political and
3 military affairs (p. 19,790).

4 During the three years between December
5 10th, 1931, and December 10th, 1934, when MINAMI was
6 appointed Ambassador to Manchukuo and concurrently
7 Commander of the Kwantung Army, not only had the Japan-
8 Manchukuo Protocol been concluded and Japan recognized
9 the independence of Manchukuo, but the Vatican, the
10 Republic of Salvador and the Republic of Dominica
11 also recognized Manchukuo, which was growing as a
12 newborn sovereign State with amazing rapidity (p. 19,791).

13 Note: (1) Ex. #241, Minutes of the Privy
14 Council meeting on September 13th, 1932, quotes Foreign
15 Minister UCHIDA's explanation as follows: "The action
16 of the Japanese Army to cope with the incident which
17 occurred on September 18th of last year was nothing
18 but the exercise of our right of self-defense. It is
19 true, however, that this action was availed of by the
20 thirty million people of Manchukuo for creating a new
21 State, but it is not in the least improper to recognize
22 that the creation of the new State was entirely based
23 on the free will of the people of Manchukuo. The
24 Nine-Power Pact provides that the Chinese territorial
25

1 integrity shall be respected, but it makes no provision
2 at all for a case where a part of China becomes
3 independent as the result of China's own disintegration.
4 In fact, when Ambassador DEBUCHI recently approached
5 the American Government authorities and informally
6 asked if they would protest in case Japan should
7 recognize Manchukuo, they replied that they had not
8 the slightest intention of making a protest or convoking
9 a Nine-Power conference, inasmuch as there was no
10 hope of such a conference reaching any conclusion.
11 Besides, the convocation of Nine-Power conference will
12 be opposed by some of the European countries. ---Whether
13 or not there is doubt that the contents of the
14 strictly secret treaty are incompatible with the
15 Nine-Power Pact, I am confident that there is no
16 conflict between the two ---I see no objection to
17 the fact that Japan has been entrusted by Manchukuo
18 with such matters as that country cannot do herself"
19 (pp. 2,985-2,986). As has been proverbially said since
20 the announcement of President Wilson's Fourteen Points,
21 self-determination of a people is a human right. There
22 was no reason why MINAMI or any citizen of Japan
23 at that time should doubt the words of the Foreign
24 Minister above-mentioned. It was indeed his honest
25 and reasonable belief that the independence of Manchukuo

1 was genuine and spontaneous (MINAMI, po. 20,044-
2 20,045).

3 Note: (2) On February 9th, 1934, MINAMI
4 was appointed "Gijokan", a councillor of the Board
5 of Decorations. The Prosecution's allegation that
6 he was a "Cabinet Councillor" is mistaken (Refer to
7 Mr. Comyns-Carr's statement, p. 16,871; Ex. #117,
8 page 6, line 10); IPS Document #0001 (pp. 21 and 331);
9 Ex. #3437, MURATA's affidavit, pp. 32,927-32,928).

10 2. KUWASHIMA (then Director of the East
11 Asiatic Affairs Bureau of the Foreign Office) testified
12 that MINAMI, as ambassador to Manchukuo in 1935, was
13 under the supervision of the Foreign Minister and
14 never acted contrary to the instructions of the
15 Government (pp. 29,500-29,501). KAWABE then staff
16 officer of the Kwantung Army testified that MINAMI's
17 instructions to his officers and men invariably
18 contained two ideas, namely, (a) respect for and assistance
19 to independent Manchukuo, and (b) self-reflection and
20 elimination of the vain feeling of Japanese superiority,
21 and that all the staff working under him believed
22 firmly in the fact that Manchukuo would secure her
23 international status as a perfect independent country)
24 Ex. #3434, pp. 32,894-32,895).

25 Note: (1) TANAKA testified as follows: "I

1 think General MINAMI was appointed because of his
2 very amiable character and his administrative ability.
3 I am referring to the fact that there was a big job
4 to be done, since Manchuria at that time was a hot-bed
5 of many disputes, especially between the police and
6 the military police, and because banditry was still
7 widespread, and his job was to restore peace and order --
8 because it was right after the time when there was
9 an open clash between civil police and military
10 police and also because of guerrillas and bandits
11 the situation was in chaos" (p. 2, 140).

12 Note: (2) TANAKA testified further that
13 immediately after MINAMI's arrival in Manchuria, he
14 abolished the Special Service Department in order to
15 remove evils of the practice of meddling in politics,
16 inasmuch as MINAMI felt that it would lead to the
17 corruption of the army itself and that he took the
18 first decisive step towards the abolition of extra-
19 territoriality in Manchuria and the transfer of the
20 administrative rights of the S.M.R. zone (p. 2, 118).

22 Note: (3) TANAKA also testified that
23 until 1935, when the Opium Control Board was set up
24 by the Manchukuo Government, the opium trade was
25 controlled by the various special service organs of
the Kwantung Army and that MINAMI was one of the persons

1 who made efforts to take away the control of opium
2 traffic from such organs and to help establish the
3 Opium Control Board under the Manchukuo Government
4 (pp. 15,856-15,858).

5 Note: (4) OKADA testified that his cabinet,
6 which came into office in July, 1934, was known as
7 "Navy Cabinet", in opposition to the army policy of
8 the use of force in connection with the expansion of
9 Japanese influence in Asia (pp. 1,823-1,824). The
10 administrative policy of the OKADA Cabinet was the
11 control or supervision of the military, the economy
12 of expenditures and the relief to the farming
13 population (p. 1,886), but his Cabinet had no Manchurian
14 policy (p. 1,890).

15 Note: (5) According to MINAMI's testimony,
16 it was the policy of the OKADA Cabinet and also his
17 personal conviction that the independence of Manchukuo
18 should be completely respected and every encouragement
19 given for its healthy growth as a sovereign State.
20 Hence, the Kwantung Army made the maintenance of peace
21 and order as its primary function and for this reason
22 he frequently gave them stern instructions not to meddle
23 in politics or do anything injurious to the prestige
24 of Manchukuo. In pursuance of the policy of the
25 Japanese Government, he abolished the Special Service

1 Department of the Army and the government of the
2 Kwantung Leased Territory and tried his best to simplify
3 the Japanese organs in Manchukuo to every extent
4 possible (Ex. #2435, pp. 19,792-19,793).

5 3. As the third ambassador to the Court
6 of Manchu after Marshal MUTO and General HISHIKARI,
7 MINAMI was received by the Emperor of Manchukuo on
8 the 3rd, 13th and 23rd of each month as days for
9 regular audience (Ex. #2435, p. 19,792). He advised
10 on matters such as agriculture, transportation,
11 education, etc. It is a noteworthy fact that Pu-Yi
12 in his severe criticism of everything Japanese never
13 once complained of MINAMI or of anything done during
14 MINAMI's tenure of office in Manchukuo (see Pu-Yi's
15 testimony, August 16th-27th, 1946).

16 Note: (1) According to MINAMI's testimony,
17 Manchukuo and Japan were on equal footing and it is
18 a great mistake to say that he was in control of the
19 Manchurian Government (p. 19,954-19,955). The greatest
20 reason for the abolition of the Special Service
21 Department was that he wished to put the Manchukuo
22 Government in a position whereby it would be free to
23 conduct its internal affairs (p. 19,975). He was
24 not a member of the Concordia Society, nor even an
25 honorary adviser. He was bitterly opposed to it because

1 he believed that if such an organ was established
2 while the country was still very young and before its
3 local administration was firmly established, the
4 various functions of the Society might conflict with
5 Governmental policies (p. 19,969). Although he did
6 not issue any directives about the Kyowakai, it was
7 not active during his tenure of office in Manchukuo
8 (p. 19,970).

9 Note: (2) KATAKURA, Chief of the Manchurian
10 Section, Military Affairs Bureau, War Ministry, from
11 December, 1934, to March, 1937, testified that the
12 Kwantung Army had the Foreign Office investigate into
13 possible cases wherein a foreign country stationed
14 its troops in an independent nation and that special
15 considerations were given so as Manchukuo would be
16 respected, e.g., in case a Manchurian committed any
17 offence against the Kwantung Army, his trial and
18 punishment would be done by the Manchurian Government
19 instead of by Courts Martial; in case the Japanese
20 army required a certain material, such procurement
21 orders would be made in accordance with Manchukuo
22 laws. "In other words, it was that Japan would, by
23 submitting to the laws of the State of Manchukuo,
24 relinquish the exercise of any privileges --- which
25 an army would enjoy under the international law"

(pp. 19,044-19,045).

1 Note: (3) Ex. #240, letter from NISHIO,
2 Chief of Staff of the Kwantung Army, to FURUSO,
3 Vice-Minister of War under date of October 25th, 1935,
4 says: "I herewith send the enclosed record of
5 resolutions of the KOHO Committee which we had reported
6 in the telegram No. Kan-Sen-Den 220; Plan for the
7 controlling organs directing public opinion in
8 Manchuria." (p. 2,967). Obviously, it was not a
9 plan of the Kwantung Army to control the public
10 opinion in Manchukuo, but merely a record of resolutions
11 of a committee of the Manchukuo Government itself.
12 According to MINAMI's testimony, at that time the
13 situation in the publishing world was extremely
14 complicated with newspapers and journals owned by
15 the Japanese and the Chinese, and the competition was
16 extremely intense. So he saw merit in such a plan
17 and gave NISHIO, his Chief of Staff, authority to
18 send it to Tokyo (pp. 19,967-19,968). The objects
19 of the plan were stated in the said document as
20 follows: (a) to unify the press agencies of both
21 the Japanese and Manchukuo Governments as well as those
22 of the S.M.R., (b) to rationalize the management of
23 public opinion in Manchuria, and (d) to facilitate
24 and ascertain the unitary control and execution
25

1 of propaganda (p. 2,968). Further, there is no evidence
2 showing that such a plan was in fact ever carried out.

3 4. It seems that the prosecution blames
4 MINAMI for giving the Government of Manchukuo advice,
5 alleged to be, in substance, "a direction" (Ex. #2207,
6 pp. 18,788-18,789, p. 16,868, pp. 19,958-19,959).

7 Prosecution witness TANAKA testified, however, (a)
8 that the Kwantung Army exercised such inner guidance
9 within Manchukuo by virtue of the Japan-Manchukuo
10 Treaty (Ex. #440), (b) that this authority was conferred
11 upon the Commander of the Kwantung Army by the Japanese
12 Government, (c) that Japan's policy towards Manchukuo
13 having been fixed before MINAMI went there, it could
14 not have been changed or modified by his single
15 authority, and (d) that there was a very great difference
16 between interference or pulling the strings and inner
17 guidance, as it were (pp. 2,114-2,116.)

18
19 Note: According to MINAMI's testimony, at
20 the time when his interrogation (Ex. #2207) was taken,
21 the prosecutor asked: "What would happen if the
22 Manchurian Government did not follow your advice?
23 In the final analysis would it not be equivalent to
24 a direction?", to which MINAMI replied: "If it be
25 taken in that way, I suppose it can't be helped."

However, during his tenure of office, he never once

1 gave any kind of order to the Manchurian Government
2 (p. 19,959).

3 In the preceding paragraphs, we have seen
4 how MINAMI respected and tried his best to enhance
5 the independent status of the young country. In the
6 annals of history, we will also see many an instance
7 where a country, recognized as independent under the
8 international law, welcomes advice or even direction
9 from another country. Furthermore, it had become the
10 obligation of Japan, more than her right, to protect
11 Manchukuo from surrounding menaces. As early as 1921,
12 the Mongolian People's Republic was established with
13 the support of the Red Army (see Part III, Para. 3,
14 Note (3), below) and in 1934-1935 the Communistic
15 Government in China proper was increasing its influence
16 day by day (see Part IV, Para. 3, Note (1), below).

17 It was MINAMI's duty, as representative of
18 Japan in Manchukuo, to see the young State grow up
19 healthy and strong, which duty he carried out without
20 excess and without negligence, as required under
21 authority from the Japanese and Manchukuoan Governments.

22 Section 6. North China Questions.

23
24 1. It is alleged by the prosecution: "While
25 Commander in Chief of the Kwantung Army and concurrently
Ambassador to Manchukuo - December 10th, 1934, to March

6th, 1936 - MINAMI conspired to further aggression
1 against China, which resulted in the acquiring of the
2 four provinces of North China. This is indicated by
3 the excerpts from the records of the Japanese Foreign
4 Ministry (Ex. #2206-A), and he admitted that his
5 troops went beyond the Great Wall (Ex. #2207)" Mr.
6 Coryns Carr, p. 16,868).

7 First of all, it is misleading to say that
8 Ex. #2206-A are excerpts from the records of the
9 Foreign Office, for they are nothing but newspaper
10 clippings allegedly found in the files of the Foreign
11 Office. We recall the President's remark on them as
12 follows: "Colonel Woolworth, when you began to read
13 this document, we treated it as a series of news items
14 in which there would be statements by the accused, or
15 some of them, or statements by those associated with
16 them, but to a very large extent there are no such
17 statements ---Some of the extracts have nothing at
18 all in them that seem to connect the accused with
19 any allegation ---(p. 15,777). We are wasting much
20 time about material which many of us, if not all of
21 us, think little or no value" (p. 15,783).

22 Note: KAWABE pointed out mistakes, in Ex.
23 #2206-A as follows: "(a) The article to the effect
24 that War Minister HAYASHI reiterated in Mukden that
25

1 the North China problem was to be handled by the
2 Kwantung Army (New York Times, June 6, 1935) is
3 entirely a fabrication. In view of distinct system
4 of command and duties of the Kwantung Army and the
5 North China Army respectively, War Minister HAYASHI
6 would absolutely never have made such a statement.

7 (b) The articles to the effect that General MINAMI
8 issued instructions to the Kwantung Army to hold
9 themselves ready to pour into China (Tribune, June 9,
10 1935; Sacramento Tribune, June 8, 1935; Oakland
11 Tribune, June 9, 1935) are also false. Such

12 instructions could not be given without a directive
13 from the Supreme Command, a directive which, if any,
14 would surely have been brought to the witness's

15 notice as a matter of function. (c) The article to
16 the effect that the Kwantung Army moved 5,000 troops
17 from Mukden to Shanhaikwan (New York Times, June 13,
18 1935) is also false. The Kwantung Army was in such a

19 condition at that time as it was inconceivable to
20 concentrate so many troops at one spot. (d) The

21 article to the effect that the army requested Prince
22 Teh of Inner Mongolia to move his capital to a place
23 180 miles to the north of Pailingmiao (New York
24 Herald Tribune, June 2, 1935) is also false. (e)

25 Besides the above-mentioned items and with regard to

matters not directly connected with the Kwantung
1 Army, I find many cases which are totally beyond
2 the witness's experience and knowledge of the
3 Japanese Army in general" (Ex. #3434, p. 32,897).

4 2. In his interrogation (Ex. #2207) MINAMI
5 replied "Yes" to the prosecutor's question whether
6 or not some of his troops went beyond the Great Wall,
7 while in his affidavit (Ex. #2435) he stated that
8 during his tenure of office there was never a case
9 of Japanese troops crossing the border. And MINAMI
10 testified that both statements were true (p. 19,977).
11 What he meant by this enigmatic answer was that since
12 his unfortunate experience as War Minister at the time
13 of the Manchurian Incident, wherein occurred the arbitrary
14 crossing of border by the Korean Army and the difficulty
15 of maintenance of understanding between the central
16 authorities and the army on the spot, he was firmly
17 resolved not to let his troops trespass on any foreign
18 soil (pp. 19,978-19,979). On the other hand, Chinese
19 bandits frequently came through the Great Wall and
20 created disturbances among the inhabitants of Manchukuo.
21 On these occasions, a portion of the army might, of
22 necessity, have crossed the border in order to mop
23 up the bandits. He gave, however, repeated instructions
24 to his troops, prohibiting even such unavoidable

1 movements (p. 19,977). In this connection, KAWABE
2 emphatically denies TANAKA's statement that two brigades
3 were sent to the demilitarized zone, south of the
4 Great Wall (Ex. 3434, pp. 2,118-2,119) and that two
5 battalions of cavalry were sent to Chahar (p. 2,118).
6 The only instance of the crossing of border occurred
7 in the beginning of summer, 1935, when a small unit
8 (about one or two companies), operating against a
9 strong bandit force near the frontier of Jehol, moved
10 into the demilitarized zone in pursuit, but withdrew
11 immediately within the border (pp. 32,897-32,898).
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Note: According to ITAGAKI's testimony, the Kwantung Army, from the viewpoint of defense against the U.S.S.R., was interested in the North China problem to secure peace in the rear in case of emergency, but even that interest was diverted to concentrate on the defense of the northern and internal fortification of Manchukuo toward December 1935. Accordingly, it was by no means a fact that the Kwantung Army sent troops to North China (p. 30,291).

3. According to the testimony of KUWASHIMA (then Director of the East Asiatic Affairs Bureau of the Foreign Office), MINAMI neither acted contrary to the Foreign Minister's instructions, nor ever sent an ultimatum to the Chinese (pp. 29,500-29,501). KAWABE testified that while he was a staff officer of the Kwantung Army there was no such fact as the Kwantung Army issued anything like an ultimatum to China or brought a similar pressure to bear upon her. (Ex. 3434, p. 32897).

It may seem, at first sight, that this evidence is contradictory to exhibit 3317-A and 3318-A, Kwantung Army's orders of November 12 and 16, 1935, to concentrate near Shanhsikwan a part of troops and of the air force in order to cooperate with the China Garrison Army in case of need (p. 30391, p. 30395).

1 The prosecutor, introducing the said exhibits in
2 ITAGAKI's case, apparently wished to connect the
3 motive of this concentration with the alleged threat
4 by DOHIHARA that if his demand for the establishment
5 of a new autonomous State of North China were not
6 accepted by noon of November 20, 1935, he would cause
7 the troops to march into North China and to remove
8 Emperor Pu-Yi from Changchun to Peking (pp. 30387-
9 30388, p. 19996). But, where is the evidence that
10 DOHIHARA made such a threat?

11 On the contrary, Chinese General Ching Teh-
12 Chun testified that probably there was such a fact
13 that General Sun Chih-Yuan very greatly welcomed the
14 establishment of the Hopei-Chahar Political Council
15 and that he had given voice to the principle of respect-
16 ing the will of the people and the maintenance of
17 harmony between Japan and China (pp. 2367-2368). Even
18 in exhibit 199, entitled as "Facts of Japanese Aggres-
19 sion in North China," General Ching never accused the
20 Kwantung Army of any ultimatum, nor did he mention
21 any concentration of troops as menace to North China
22 (pp. 2311-2317).

24 ITAGAKI testified that these troop movements
25 were ordinary peace time movements (p. 30395). It is
a well-known military practice of any country that

1 maneuvers are conducted upon a hypothesis of an advance
2 vis-a-vis an imaginary enemy under certain conditions.
3 The true intention of MINAMI is clearly indicated by
4 the reported words of Foreign Minister HIROTA on
5 November 30, 1935, as follows: "There is no need to
6 worry so much about the situation in North China."
7 General MINAMI has clearly told me: "In the event
8 of ever despatching troops south of Shanhaikuan, it
9 would naturally be based upon an Imperial command.
10 Troops will definitely not be sent south of Shanhai-
11 kuan as long as there is no Imperial Command to do
12 so." (Ex. 3779, pp. 37674-37675).

13 Note: (1) Exhibit 3317-A states: "We
14 decided to concentrate a part of the forces outside
15 the Great Wall" (p. 30391) and exhibit 3318-A reads:
16 "The Army intends to gather part of its air force
17 outside Shanhaikuan" (p. 30394). For the sake of
18 precaution, we wish to remark that the expression
19 "outside the Great Wall" or "outside Shanhaikuan" does
20 not mean outside Manchukuo. It is a customary usage
21 in Chinese language, that "outside" or "inside" in
22 reference to a locality is always viewed from the
23 standpoint of China proper. The fact that the con-
24 centration never took place outside Manchukuo is shown
25 in exhibit 3317-A by the sentence: "However, as to

advancing to the south of Shanhaikuan, same shall
depend on army orders" (p. 30391), and in exhibit
3318-A by the phrase: "to advance between Shanhaikuan,
Suichang and Chinchow" (p. 30395). The above-named
places are all inside Manchukuo.

4. The fact that the Hopei-Chahar Political
Council was established in December 1935 by the initiative of the National Government of China itself is
admitted by the prosecution and called "as a counter-measure" (Mr. Darsey, p. 1686). Countermeasure to
what? The prosecution alleges that the Kwantung Army
implemented the policy of attraction through military,
political and economic pressure on the local governments and that the following events took place
(Mr. Darsey, pp. 1685-1686):

(a) "In January 1935 a slice of Inner
Mongolia was incorporated by military action into the
puppet state in Manchuria." However, where is the
evidence to prove such an allegation?

(b) "The military garrison at Tientsin was
substantially reinforced." When and from how many to
how many? The prosecutor himself admitted that there
was no provision as to the number of troops limited
under the Boxer Protocol (Colonel Morrow, p. 2471).
General Chin Teh-Chun also admitted that the complex

1 interests possessed by Japan in North China far ex-
2 ceeded those of other nations there (p. 2473). Gen-
3 eral Chin testified: "I think it does not matter very
4 much if they had seven thousand or fifteen thousand
5 men stationed there in North China. I don't remember
6 that the Chinese Government ever said that the fifteen
7 thousand Japanese troops there were in excess or the
8 Chinese Government didn't at that time complain to the
9 Japanese that their troops were too many then."
10 (p. 2473).

11 (c) "Many military incidents occurred on
12 the Manchurian, Mongolian and Siberian frontiers."
13 What kind of incidents? When and how did they happen?
14 General Chin mentions no such incident in 1935 except
15 the Northern Chahar Incident of June 1935, the matter
16 which, after some negotiation between a Japanese
17 Consul at Kalgan and a Chinese Commander of Chang Pei,
18 was referred to the Headquarters of the Japanese
19 Garrison in Tientsin (Ex. 199, p. 2312).
20

21 (d) "Political and economic control and
22 domination of large areas were established." Does this
23 mean the establishment of the so-called Eastern Hopei
24 Anti-Comintern Autonomous Council, in the demilitarized
25 zone prescribed by the Tangku Truce (Mr. Darsey,
p. 1685)? The sole basis of the prosecution's

1 allegation is exhibit 210, which states: "By threat
2 and bribery they induced Ying Ju-Kung, then Adminis-
3 trative Commissioner, to cable the National Govern-
4 ment on November 15, 1935, asking for autonomy. . . .
5 The 22 Hsiens in the war zone were forcibly and un-
6 lawfully taken over by this puppet organization. . . ."
7 (pp. 2702-2703). This exhibit 210 is a document,
8 entitled "Summary of Japanese War Crimes in China from
9 September 18, 1931, to August 1937" and prepared by
10 the Ministry of Foreign Affairs, Republic of China,
11 apparently for the purpose of this trial. (See
12 certificate attached to the exhibit by Mr. T. C. Liu,
13 assistant prosecutor, p. 2697). We submit respect-
14 fully that such a document cannot be considered as
15 evidence in any court of law which professed to give
16 a fair trial to an accused.

17 The prosecution further alleges that "General
18 MINAMI, Commander in Chief of the Kwantung Army,
19 General UMEZU, Commander in Chief of the Tientsin
20 Army, and Colonel DOHIMARA cooperated in an effort to
21 establish an autonomous area in the provinces of North
22 China for the purpose of extending and strengthening
23 the military, political and economic domination of
24 Japan in China" (Mr. Darsey, p. 1685). It was, however,
25 only TANAKA, who named MINAMI and UMEZU as originators

1 of the autonomous movement in North China in the
2 first instance (pp. 2033-2034), and yet, TANAKA
3 testified that he had "no recollection of having
4 ever testified to Prosecutor Sackett that General
5 MINAMI was an instigator of aggressive action
6 (p. 2140).

7 5. Exhibit 195, a letter from NISHIO,
8 Chief of Staff of the Kwantung Army, to FURUSHO,
9 Vice Minister of War, under date of December 9, 1935,
10 enclosed the so-called propaganda plan of the Kwan-
11 tung Army in North China. It is said therein: "It
12 must be made clear that when we do despatch our
13 military force to China sometime in future, we do it
14 for the purpose of punishing the Chinese military
15 clique and not the Chinese people at large." (pp. 3277-
16 3278; pp. 19998-19999). According to MINAMI's testi-
17 mony, the sending or exchanging of such plans or
18 ideas between the Chief of Staff and the Vice Minister
19 is carried on internally between themselves for the
20 purpose of trying to seek a meeting of minds on
21 certain subjects. The practice of such documents
22 being sent without the knowledge or approval of the
23 commanding general frequently happened. (pp. 20003-
24 20004).
25

However, the question is not only whether he

had any knowledge thereof, but whether such a plan was made in contemplation of a war of aggression. The said plan states as its general principle: "We start our propaganda to convince the whole world of our lawfulness." (p. 2277). It is certain, therefore, that the author of the said plan was himself convinced of the lawfulness of an action in future against the "Chinese military clique." In other words, the whole plan was based upon a hypothesis of a lawful war. We submit that the discussion and preparation of a propaganda plan on such basis is no crime under international law.

6. According to exhibit 215 (item 5 of the gist of plans in the instruction to the Commander of the Stationary Troops in China from the General Staff in Tokyo under date of January 13, 1936), the management of matters concerning North China was definitely assigned to the duty of the Commander of the Japanese Garrison in Tientsin and did not belong to the jurisdiction of the Commander of the Kwantung Army. In line with this evidence, TANAKA testified that he had seen the instruction of December 31, 1935, from the Vice Minister of War to the Chief of Staff of the Kwantung Army, to transfer DOHIHARA from the Kwantung Army to the North China Army. The reason

1 for such transfer, according to TANAKA, was that
2 TADA, Commander of the North China Army, protested to
3 the coming of DOHIHARA, unless DOHIHARA was put under
4 TADA's command (pp. 2125-2126). Exhibit 3429, telegram
5 from the Vice Minister of War to the Chief of Staff
6 of the Kwantung Army, shows the fact that as far back
7 as November 11, 1931, there were clear distinction
8 and mutual respect between the duties of the North
9 China Garrison and those of the Kwantung Army
10 (p. 32861). It is, therefore, obvious that MINAMI's
11 authority as Commander of the Kwantung Army did not
12 extend to North China. Furthermore, he voluntarily
13 requested to be relieved from the said office of
14 commander in March and retired from the active service
15 in April 1936.

16 Section 7. The China Incident.

17 1. MINAMI was transferred to the reserve
18 list on April 22, 1936. He was appointed Governor of
19 Korea on August 5, 1936. He took this office not as
20 a soldier but as a civilian. All military affairs
21 were under the exclusive charge of the Commander of
22 the Korean Army, and MINAMI devoted himself entirely
23 to the elevation of the status and conditions of the
24 Korean people (exhibit 2435, p. 19796). According to
25 UGAKI's testimony, the duties of the Governor of Korea

1 were more or less the same as those of governor-
2 generals of any other country. The duties comprised
3 all kinds of work, except military matters, and had
4 no connection with troop movements of the Korean
5 Army (pp. 1624-1625).

6 2. Exhibit 2437, a letter of September 23,
7 1938, from MINAMI to Foreign Minister UGAKI, has been
8 produced by the prosecution as if to show that MINAMI
9 had some connection with the Sino-Japanese Incident
10 which broke out on July 7, 1937. The letter indicates,
11 however, that he had been merely a bystander of the
12 whole affair, without any particular knowledge thereof
13 other than newspaper reports. He used the words
14 "holy war," because it was the commonly used expres-
15 sion of newspapers, etc. of the time. MINAMI did not
16 believe that the Sino-Japanese Incident was an aggres-
17 sive war but thought these hostilities were caused by
18 unavoidable circumstances (p. 20014). Furthermore he
19 wanted to have the hostilities cease as soon as pos-
20 sible. He believed that the recognition of a pro-
21 Japanese regime in North and Central China simultaneous-
22 ly with the fall of Hankow would bring about the
23 desired peace there and then (p. 20012).

24 The Japanese Government had already made its
25 policy clear to the world since the KONOYE Declaration

1 of January 16, 1938, that while Japan would respect
2 the territoriality and sovereignty of China and the
3 rights and interests of the powers in China, she
4 would not care for the Chiang Regime but would expect
5 the establishment of a new government really worthy
6 for cooperation in the establishment of peace.
7 (Ex. 268, p. 3463). As MINAMI is a true old Japanese,
8 he would never dream of doubting the face value of a
9 governmental proclamation. The gist of his letter
10 to UGAKI is clearly embodied in the first and the last
11 sentences thereof: "Sir: Approximately one year has
12 passed since the outbreak of the Sino-Japanese Inci-
13 dent (p. 20012). * * * it is my wish to have your
14 Excellency make final judgment on this point. Yours
15 respectfully." (p. 20013). In plain words it can only
16 mean: "Why don't you finish with the Incident right
17 now?"

18 He would not write such a letter to any other
19 person except UGAKI, who had been his intimate senior
20 and by whose recommendation he succeeded to the posts
21 of War Minister in 1931 (Ex. 2435, p. 19777) and of
22 Governor of Korea in 1936 (p. 19796). Curiously, these
23 two generals never liked war. Both of them exerted
24 their efforts in cutting down army expenditures and in
25 suppressing political intrigues of young officers

(see Part I). They were in agreement with the "friendship diplomacy" rather than with the expansion policy of militarists. At least, they had a sense of proportion more than any of their colleagues and juniors. It was only destiny which prevented them from success in stemming the torrential overflow of the national enthusiasm in those days.

3. In the course of his interrogation (Ex. 2207), MINAMI said: "I might explain that in the last fifteen years the thing I have been most against was our war with China, as I felt that the peace of Asia could not be maintained unless Japan and China remained at peace." (p. 20007). When, however, the question became that of the national prestige, no statesman could control the situation, just the same as the case of individuals wherein personal honor is involved.

It is alleged by the prosecution that "General MINAMI was one of those at the bottom of the conspiracy for aggression against China, and that he was an important figure in future plans for aggression." (Mr. Comyns Carr, p. 16869). We submit, however, that the prosecution has failed to establish any such fact and that MINAMI is innocent of any crime under Counts 2, 3, 6, 18, 27 and 28. He served as War Minister

under Premier WAKATSUKI in 1931 and as Commander of
1 Kwantung Army and Ambassador to Manchukuo under
2 Premier OKADA in 1935. Both WAKATSUKI and OKADA are
3 free from any charge of conspiracy against China and
4 both of them never accused MINAMI with such a conspir-
5 acy, when they were called to the Tribunal as prosecu-
6 tion witnesses (see Part I, Par. 3, Note (2), para-
7 graphs 4 and 7; Part II, Section 5, Para. 2, Note (3),
8 above).

10 Note: According to MURATA's testimony, no
11 decoration was awarded to MINAMI "for services in
12 China affairs," except a pair of silver cups (small
13 ones for sake) on April 29, 1940 (Ex. 3437, p. 32928).
14 Those who were granted rewards in the Manchurian
15 Incident total 452,826, among whom are WAKATSUKI,
16 SHIDEHARA, UGAKI, HAYASHI, MORISHIMA and TANAKA. Those
17 who were granted rewards in the China Incident total
18 3,319,548 (Ex. 3147, pp. 28029-28032).

19 Now with the Tribunal's permission,
20 Mr. OKAMOTO will continue with the reading of Parts
21 III and IV.

22 THE PRESIDENT: Mr. OKAMOTO.

23 PART III. Counts 7-17, 29-32 and 34.

24 MT. T. OKAMOTO: These Counts charge MINAMI
25 with the planning and preparing of an illegal war since

1 January 1, 1928, against the U.S.A., Great Britain,
2 Australia, New Zealand, Canada, India, the Philippines,
3 the Netherlands, France, Thailand and the U.S.S.R.
4 (Counts 7-17), and with the waging of an illegal war
5 since December 7, 1941, against the U.S.A., the
6 Philippines, the British Commonwealth, the Netherlands
7 and Thailand (Counts 29-32 and 34).

8 1. In accordance with the chronological
9 order, we shall first take up the question vis-a-vis
10 the Soviet Union. The prosecution produced exhibit
11 2436, instruction of October 6, 1927, by MINAMI, as
12 Vice-Chief of the General Staff, to KOMATSUBARA,
13 military attache at the Japanese Embassy in the
14 U.S.S.R. to investigate special organizations,
15 associations and important individuals who might be
16 used for the gathering of intelligence information,
17 for propaganda, and for subversive activities
18 (pp. 19943-19944).

19 MINAMI testified that military attaches
20 were under the direct control of the Chief of the
21 General Staff, that a Vice-Chief attended to business
22 matters and transmitted orders from the Chief as a
23 routine work, and that the principal duty of military
24 attaches of every country was to conduct intelligence
25 activities (pp. 19944-19945). Was MINAMI's instruction

1 anything extraordinary from the standpoint of such
2 a custom? Any country must have a plan and a certain
3 kind of preparation for its national defense. For
4 such purpose, informations must be gathered from
5 others while every care should be taken to guard its
6 own. It is true that each country has its laws to
7 punish spies, but never has the international law
8 tried to condemn them in peace time. In the case of
9 the United States ex rel. Wessels v. McDonald,
10 Commandant of Brooklyn Navy Yard, the District Court
11 said in 1920: "An alien serving as a spy is not
12 guilty of any crime against the country which he is
13 seeking to undermine by his acts or conduct as the
14 term crime is used in the international law. Of
15 course, if he serves as a spy against his own
16 sovereignty, he may be found guilty of crime under
17 the law" (265 Fed. 754, 762-763 (E.D.N.Y., 1920);
18 dismissed, per stipulation, 253 U.S. 705 (1921);
19 quoted in the Digest of International Law by J. H.
20 Hackworth, 1943, Vol. VI, p. 308).

21 Note: (1) "A spy may not be tried under
22 the international law when he returns to his own
23 lines, even if subsequently captured, and the reason
24 is that, under the international law, spying is not a
25 crime, and the offense which is against the laws of

1 war consists of being found during the war in the
2 capacity of a spy" (Hackworth, ditto, VI, pp. 307-
3 308).

4 Note: (2) The Hague Convention No. 4 of
5 October 18, 1907, provides that ruses of war and the
6 employment of measures necessary for obtaining in-
7 formation about the enemy and the country are con-
8 sidered permissible (Article 24) and defines the
9 treatment of a spy in the war time (Articles 29-31).

10 2. In the course of cross-examination of
11 MINAMI, the President put a few questions referring
12 to exhibits 691, 698 and 703 and there was some con-
13 fusion in the showing of the right document to the
14 witness (p. 20037, p. 20042, p. 20044). Exhibit 691-A
15 is a report by Colonel SUZUKI in May 1931 of his
16 inspection tour of Manchuria and Korea in accordance
17 with an instruction given on March 16, 1931, by the
18 Chief of the First Department of the General Staff
19 (pp. 7438-7440). In March 1931 MINAMI was a Councillor
20 and in May the War Minister (Ex. 116). In both
21 capacities, MINAMI had no connection with the in-
22 struction or with the report made within the juris-
23 diction of the General Staff (see Part II, Section 2,
24 Par. 3, Note (4) above).

25 Exhibit 698 is a report by Major KANDA of

1 the Harbin Intelligence Service in 1927 to Colonel
2 KAWAMOTO, officer in charge of intelligence of the
3 Kwantung Army, referring to KANDA's study of methods
4 of strategy vis-a-vis Soviet Russia (p. 7464;
5 Ex. 3852, p. 38239). The report was also sent to
6 Major KASAHARA, then Chief of the Russian Section
7 of the Second Department of the General Staff
8 (pp. 7463-7464). KASAHARA testified that this docu-
9 ment was prepared by KANDA in his private capacity
10 (p. 7463) and the study was an individual research
11 (p. 7630). "If this had been an official document,"
12 KASAHARA stated, "it should have been sent under the
13 name of the Chief of the Harbin Special Mission
14 Service through the Kwantung Army to the General
15 Affairs Bureau of the General Staff in Tokyo. Without
16 these indications, it would not be an official docu-
17 ment. * * * It is only the result of a private
18 research sent to a private person; in this case,
19 myself" (p. 7631). " * * * and I have not shown it
20 to my superiors" (p. 7634). It is, therefore, natural
21 for MINAMI to reply: "I do not recall that," to a
22 question of the President's: "Did you read that
23 document for the first time in 1928 when you were
24 Vice-Chief of the Army General Staff?" (p. 20044,
25 see also pp. 20089-20090). KASAHARA testified also

1 that any of these plans as to sabotage activities
2 were never put into action (p. 7637).

3 3. Exhibit 703, the affidavit of USHIROKU,
4 will not be taken into consideration of the Tribunal
5 under the ruling of November 17, 1947 (p. 33236).
6 In any case it is stated by USHIROKU that the plan
7 vis-a-vis Soviet Russia was drawn up by Lieutenant
8 General IMAI, Kiyoshi, Chief of the First Department
9 of the General Staff, and approved by Field-Marshal
10 Prince KANIN, Chief of the General Staff, and also
11 sanctioned by the Emperor in March 1935 (p. 7519).
12 MINAMI mistook this as an emergency plan of opera-
13 tions of the Kwantung Army (pp. 20037-20039), but
14 such mistake was corrected later (p. 20044, pp. 20089-
15 20090).

16 In our submission it is the sovereign
17 right of an independent country to prepare a plan
18 for its national defense against a hypothetical
19 enemy. In the case of the U.S.S.R., in particular,
20 many Japanese were not only chronic Russo-phobes
21 (see Part II, Section 1, Par. 1, (Note (1) above),
22 but had, as matter of fact, suffered severely from
23 subversive activities of Communists both at home and
24 abroad, especially in China (Ex. 57 (pp. 20-23),
25 pp. 18694-18696).

1 Note: (1) "Communism in China not only
2 means, as in most countries other than the U.S.S.R.,
3 either a political doctrine held by certain numbers
4 of existing parties, or the organization of a special
5 party to compete for power with other political
6 parties. It has become an actual rival of the
7 National Government. It possesses its own law,
8 army and government, and its own territorial sphere
9 of action. For this state of affairs there is no
10 parallel in any other country. * * * So far as Japan
11 is China's nearest neighbor and largest customer, she
12 has suffered more than any other Power from the law-
13 less conditions described in this chapter." (Ex. 57,
14 (pp. 22-23), pp. 18704-18706).

15 Note: (2) "As the Soviet Government and
16 the Third International had adopted a policy opposed
17 to all imperialist Powers which maintained relations
18 with China on the basis of the existing treaties, it
19 seemed probable that they would support China in the
20 struggle for the recovery of sovereign rights. This
21 development revived all the old anxieties and suspi-
22 cions of Jpan towards her Russian neighbor. This
23 country, with which she had once been at war, had,
24 during the years which followed that war, become a
25 friend and ally. Now this relationship was changed,

1 and the possibility of a danger from across the
2 North-Manchurian border again became a matter of
3 concern to Japan. The likelihood of an alliance
4 between the Communist doctrines in the North and the
5 anti-Japanese propaganda of the Kuomintang in the
6 South, made the desire to impose between the two a
7 Manchuria which should be free from both, increasingly
8 felt in Japan. Japanese misgivings have been still
9 further increased in the last few years by the pre-
10 dominant influence acquired by the U.S.S.R. in Outer
11 Mongolia and the growth of Communism in China"
12 (Ex. 57 (pp. 36-37), p. 18732).
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Note: (3) "Relying upon the relationship
1 of unchanging friendship which have existed between
2 their countries since 1921, when, with the support of
3 the Red Army, the territory of the Mongolian People's
4 Republic was liberated from the White Guard detach-
5 ments which were in contact with the military forces
6 which had invaded the territory of the U.S.S.R...
7 (the contracting parties) have decided to confirm in
8 the form of the present Protocol the Gentlemen's Agreement
9 existing between them since 27 November, 1934, which
10 provides for mutual support with all means in avert-
11 ing and preventing the threat of a military attack..."
12 (ex. 214, Protocol of Mutual Assistance between the
13 U.S.S.R. and the Mongolian People's Republic, March 12,
14 1936, pp. 2715, 2716).

16 4. It is clearly shown by the prosecution,
17 exhibit 214, that the Red Army invaded China and es-
18 tablished the Mongolian People's Republic as early as
19 1921, and concluded the so-called Gentlemen's Agreement
20 on November 27, 1934. There is no wonder therefore
21 that airfields were to be constructed in Manchukuo to
22 meet the danger from a possible Soviet attack. When
23 MINAMI became the Commander of the Kwantung Army between
24 December 10, 1934, and March 6, 1936, such bases were
25 nearing completion (MINAMI, p. 19,951). In North

Manchuria these construction works for defense purpose
1 were carried on, but MINAMI did not know whether they
2 were three, five, or seven (p. 19,952). Railway con-
3 struction was also going on, the principal objective
4 of which was the opening up of Northern Manchuria,
5 though occasion for its use also for defensive purpose
6 might possibly occur (p. 19,951). However, MINAMI's
7 instructions and orders were merely to assist the
8 growth of a healthy independent state under the agree-
9 ment between the countries and to preserve order and
10 security there, and these orders did not encompass the
11 building of a military base on the continent directed
12 aggressively against the U.S.S.R. and China (p. 19,953).

14 According to KATABE's testimony, "the Kwantung
15 Army at that time held the maintenance of peace and
16 order within Manchukuo as the primary duty under the
17 Japan-Manchukuo protocol. The troops were put in dis-
18 persed positions to the extreme, suffering the inade-
19 quacy from the military point of view for the defense
20 against dangers from outside of Manchukuo. Hence, the
21 disposition of the army was even more inadequate for
22 any offensive towards the U.S.S.R. or China" (ex. 3434,
23 p. 32,895).

24 On the other hand, there are exhibit 2433,
25 an agreement of September 4, 1934, between the Navigation

1 Bureau at Harbin, Manchukuo, and the Navigation Bureau
2 at Amur. U.S.S.R., concerning navigation of inland
3 waterways (p. 19,720), and exhibit 2428 and 443, the
4 final protocol of March 23, 1935, between the U.S.S.R.
5 and Manchukuo for the sale of the Chinese Eastern
6 Railway (p. 19,702), all showing the de facto recogni-
7 tion of Manchukuo by the U.S.S.R. as well as the friend-
8 ly relations then existing between the U.S.S.R. and
9 Japan. According to MINAMI's testimony, it was agreed
10 between the U.S.S.R. and MANCHUKUO that a committee be
11 appointed for the settlement of the boundary question
12 (ex. 2534, p. 19,792) and during his tenure of office
13 there was never a case of Japanese or Manchukuoan
14 troops crossing the border (p. 19,793).

15
16 Amidst the atmosphere of such peace and
17 tranquility, it is indeed impossible to conceive that
18 MINAMI with his total strength of 60,000 (ex. 2207,
19 p. 15,785). of which only 30,000 were effectives
20 (KAWABE, p. 32,905), would have planned and prepared
21 a war of aggression against the colossal forces of the
22 U.S.S.R!

23 5. As to the accusation that MINAMI ever
24 planned and prepared against the U.S.A., Great Britain,
25 Australia, New Zealand, Canada, India, the Philippines,
the Netherlands, France and/or Thailand, it is more

fantastic than any fiction of adventure.

1
2 6. As to the waging of war against the
3 U.S.A., the Philippines, the British Commonwealth,
4 the Netherlands and/or Thailand, since the outbreak
5 of the Pacific War, MINAMI was in it only as much as
6 any ordinary Japanese citizen was in it, after the
7 Imperial proclamation was issued, declaring war upon
8 the U.S.A. and Great Britain. There was no other way
9 or duty for him to choose but that of support of
10 governmental measures for the prosecution of hostili-
11 ties once war was declared by the Emperor.

12 On May 29, 1942, he was transferred from the
13 post of the Governor of Korea to that of a privy coun-
14 cillor (ex. 116), which was in fact an old men's honorary
15 asylum. On March 31, 1945, he resigned from the Privy
16 Council and became the president of the Japan Political
17 Society (ex. 2534, p. 19,798). At that time he was
18 71 years of age and nearly deaf. When the country was
19 on the verge of collapse he could not sit still in a
20 comfortable chair at the Privy Council and wished to
21 give whatever help he could to save the country from
22 ruin.
23

24 7. The prosecution says: "He was a member
25 and president of the Greater Japan Political Associa-
tion, one of the principal aims of which was the ex-

1 tension of the Greater East Asia Co-Prosperity Sphere,
2 which included India, Burma, the Dutch East Indies
3 and the Philippines, and he believed in Asia for the
4 Asiatics" (Mr. Comyns-Carr, pp. 16,868, 16,869). What
5 of it even if he so believed during his four months'
6 tenure of the presidency? All his intentions and
7 actions at the crisis of his country were based on
8 his belief that they were nothing but sheer self-
9 defense in the strictest sense of international law.
10 The fact that he never exceeded the limit thereof is
11 shown by his attitude at the time of termination of
12 the war (see PART I, para. 9). We submit, therefore,
13 that he is not guilty of any crime alleged in Counts
14 7 - 17, 29 - 32 and 34.

15
16 PART IV. Counts 44 and 53 - 55.

17 These counts charge MINAMI with conspiracy
18 to procure and permit the murder of prisoners of war,
19 civilians and crews of torpedoed ships (Count 44), with
20 conspiracy to order, authorize and permit his subord-
21 inates to commit atrocities (Count 53), with having
22 ordered, authorized and permitted the same (Count 54)
23 and with having deliberately and recklessly disregard-
24 ed his legal duty to take adequate steps to secure
25 the observance of Conventions, etc. and prevent breaches

thereof (Count 55) since September 18, 1931.

1 1. The prosecution tried to connect MINAMI
2 with P.O.W. questions by producing exhibit 1973, a
3 telegram from the Chief of Staff of the Korean Army to
4 the Vice Minister of War under date of March 1, 1942,
5 which used such words as "the Government-General and
6 the Army are both strongly desirous" of receiving
7 prisoners of war in Korea (p. 20,018; Ex. 1973, p. 14,
8 513, language correction at p. 14,512).

9 According to the testimony of ONO, who was
10 the Director-General for Political Affairs of the
11 Government-General of Korea under MINAMI from August
12 5, 1936, to May 29, 1942, matters relating to P.O.W.
13 was under the jurisdiction of the Commander of the
14 Korean Army who was directly under the control of the
15 Emperor, and therefore neither the Governor-General
16 nor the Government-General ever concerned themselves
17 with such matters. The Government-General was once
18 requested by the army to find some accommodation for
19 P.O.W.'s if they were brought to Korea, but that was
20 all. The Government-General had no concern with the
21 purpose why P.O.W.'s would be brought to Korea, and so
22 there was no such case for expressing any desire
23 referring to P.O.W. (ex. 3435, pp. 32,920 - 32,921).
24 According to MINAMI's testimony, he received a report
25

from one of his subordinates that the Government-General was asked by the army to provide accommodation for P.O.W.'s and that some school buildings were suggested by an official in the Government-General (p. 20,020).

2. As the prosecution admits, P.O.W.'s did not arrive at Korea until after MINAMI left (p. 20,021) and the suggested buildings were such as the War Minister and the Vice War Minister thought were too good for use for prisoners of war (pp. 20,020 - 20,021; ex. 1974, p. 14,514). Exhibit 1975, telegram of August 13, 1942, from IBARA, Chief of Staff of the Korean Army, to KIMURA, Vice-Minister of War, has nothing to do with MINAMI, because it reports only the state of affairs after his departure from Korea (pp. 14,521 - 14,529).

3. The prosecution alleges: "While Governor of Korea he approved the sending of prisoners of war to Korea for illegal purposes, as is shown by the correspondence between General ITAGAKI and the War Ministry (ex. 1973, 1974, and 1975)" (Mr. Comyns-Carr, p. 16,869). Such an allegation cannot be sustained unless something is distorted. As there is no supporting evidence to connect MINAMI with the charges mentioned in counts 44 and 53 - 55, we submit that he

is innocent of all of them, with the utmost confidence.

CONCLUSION

Reviewing back the evidence presented to the Tribunal since the beginning of this trial, we cannot help but remark that the charges against MINAMI are based on mere rumors and hearsay, and that he is accused of the very acts which he exerted himself to prevent. All the direct evidence, either oral or documentary, point only to the fact that he did his duty at every stage of his career, neither exceeding his authority nor ever negligent thereof. If patriotic devotion to duty and believing in the declarations of one's government agencies is to be any offence either national or international, we have to submit that there can be no stability or security from injustice for the citizens of any nation in the world.

In conclusion, we shall make a few comments on the prosecution's summation against MINAMI (NN-1 to 35).

1. It is alleged: "He knew or should have known of the March Incident, and he knew or should have known that the War Office was represented in the Sakura-kai, and that the aims of the Sakura-kai were to carry out an internal revolution and settle the Manchurian problem" (NN-4), on the strength of TANAKA's

testimony (p. 1963). TANAKA's testimony is based,
1 even if we believe him, on the talk of Captain CHO in
2 Shanghai, after the Manchurian Incident (p. 1963).
3 According to TANAKA, the Sakura-kai was first organized
4 on October 1, 1930, by lieutenant-colonels and majors
5 of various branches of the military service (pp. 1961 -
6 1962), and "the meeting on October 1 did not touch at
7 all on Manchurian problems" (p. 1962). The so-called
8 March Incident in March, 1931, was suppressed by UGAKI,
9 then War Minister, without any actual harm done to any-
10 body (SHIMIZU, exhibit 157, p. 1404). When MINAMI
11 became War Minister on April 14, 1931, there was nothing
12 left for him to deal with. On the other hand, the firm
13 resolution of MINAMI to prohibit all these activities
14 within the army is clearly shown by a lecture of TOYAMA,
15 Provost Marshal of Tokyo, given to his subordinates on
16 August 19, 1931, whereby the military police was ordered
17 to cooperate in the guidance of young officers and to
18 stave off any ill effects upon military discipline
19 (ex. 3416, pp. 32,810 - 32,812, see PART I, para. 4,
20 Note above). In the latter part of September, 1931,
21 such dangerous characters as SHIMIZU and others were
22 arrested and put in jail (ex. 157, p. 1405). On October
23 17, 1931, HASHIMOTO and other young officers were
24 apprehended and the so-called October Incident was
25

nipped in the bud (FASHIMOTO, p. 28,791, WAKATSUKI, p. 1568, see PART I, para. 4, above). What else more could a War Minister do to assist in the maintenance of military discipline?

2. It is further alleged: "It would seem that the slightest consideration of the matter on the part of MINAMI would have caused him to make sure that TATEKAWA was then the Chief of the First Department of the General Staff (KATABE, p. 19,424) and it was but natural that he was despatched to Manchuria by orders of KANAYA, Chief of the General Staff (KOISO, p. 32,207; MINAMI, p. 19,821; see PART II, Section 1, para. 7. above). There is no reason why MINAMI should have distrusted such a high ranking officer nor why he should have questioned KANAYA's choice of this messenger to the Kwantung Army. Article 2 of the Kwantung Army Headquarters Regulations explicitly provides: "The commander shall be under the delegated command of the War Minister in the matters of military administration and personnel affairs and under the command of the Chief of the Army General Staff in the matters of military operations and mobilization plan and under the Inspector-General of the military education in the matters of military education (ex. 2415, pp. 19,554-19,555). As the rumor of activities in Manchuria were

concerned with operations and mobilization plans
1 rather than matters of military administration (see
2 PART II, Section 1, paras. 6 and 7, above), the
3 responsibility to investigate the situation on the
4 spot and to caution the Kwantung Army against any in-
5 advertence must have fallen within the jurisdiction of
6 the Chief of the General Staff. Furthermore, the
7 honest belief of MINAMI referring to the integrity of
8 senior members of the army is shown clearly by exhibit
9 3416, in which Provost Marshal TOYAMA said: "It seems
10 to me that the reason why the said tendency absorbs
11 the attention of young officers lies in the mistaken
12 supposition that their activities are lead by the
13 higher authorities of the army. Not only, however,
14 is that not a fact, but the War Minister is firmly
15 resolved to prohibit all these activities within the
16 army" (pp. 32,812-32,813). How could MINAMI have
17 known that TATKATA was the alleged person responsible
18 for releasing the bombs to OKATA, as alleged by the
19 prosecution? It is submitted respectfully that the
20 prosecution is assuming too many presumptions without
21 foundation.
22

23 3. The prosecution's allegations in NN-5 to
24 are fully met by our contentions in PART I, para. 5,
25 Note (1), para. 6, Notes (1) and (2), above. Further-

more, there is no evidence to support such allegations, for instance, as "studies being made in the War Ministry prior to the Manchurian incident, concerning the conquest of Manchuria" or "a group in the army led by Lt. Colonel HASHIMOTO and SHIGEMITSU had become so powerful between July and October, 1931, that the army could not check such persons and difficulty was even had in drafting a budget" (NN-7). Neither the War Minister nor the War Ministry can be responsible for all letters or demands or suggestions addressed to him or to the Ministry. In order to establish MINAMI's guilt under the said charges, it must be shown, first of all, that he approved the purport of such letters, demands or suggestions. The evidence shows, on the contrary, that the Kwantung Army's demands were rejected by the central army authorities (ex. 3316, p. 30,258; ex. 2884-A, p. 22,110), that officers' salaries were cut down from 5.8% for first lieutenants to 12% for generals (ex. 3414, p. 32,803), that mobilizable strength for wartime was reduced from 32 to 28 divisions (ex. 3375, p. 32,803) and that HASHIMOTO and others were arrested during September and October, 1931 (see para. 1 above).

4. In NN-8, it is alleged: "SHIDEHARA testified that prior to the Mukden Incident he noti-

fied MINAMI that he had received a cable from the
1 Japanese Consul General in Mukden that within a week
2 a big incident would break out. It was at this point
3 that the officers responsible for the situation should
4 have been dealt with appropriately if MINAMI really
5 desired to stop an incident." It must be pointed out
6 that SHIDEHARA never testified to the effect such as
7 quoted by the prosecution (see PART II, Section 1,
8 paras. 6 and 7, above) and that the person who said
9 something to that effect was TANAKA, Ryukichi, who
10 heard in 1934 from TATEKAWA that such a conversation
11 took place between SHIDEHARA and MINAMI (pp. 2003 -
12 2006). It is obvious that no War Minister in any
13 country would deal with officers on the basis of a mere
14 rumor, without carrying out proper investigations.
15 The prosecution also alleges: "The record, however,
16 does not show that MINAMI, the 'doubting Thomas' did
17 a single thing to stave off the event, which was so
18 notoriously bruited about that the Foreign Office, the
19 General Staff and the War Minister in Tokyo knew approxi-
20 mately when it was to take place, and what was to
21 happen." (NN-9). "What an amazing accusation! The
22 record abounds with evidence of his bona fides and his
23 effort to stave off any untoward event (see PART II,
24 Section 1, paras. 6 and 7, above). It is only the
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"doubting" prosecutor who does not see them. It is
1 further alleged: "The sum and substance of the matter
2 is that the SHIDEHARA policy of conciliation was thrown
3 overboard and a new political force emanating from the
4 army came into play, aided and abetted by MINAMI"
5 (NN-10). This allegation is, however, entirely contra-
6 dictory to testimony of prosecution witnesses WAKATSUKI
7 (p. 1571, p. 1583) and SHIDEHARA (p. 1328, p. 1338)
8 and has no foundation except hearsay. In our sub-
9 mission, all direct evidence point to MINAMI's innocence
10 of any complicity in the alleged conspiracy (see PART I,
11 paras. 8 and 10).
12

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1045, a recess was
16 taken until 1100, after which the proceed-
17 ings were resumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. OKAMOTO.

MR. T. OKAMOTO: I resume reading on page 179, at the bottom.

5. The allegations in NN-11 to 13 are fully refuted by our contention in Part II, Sections 2 and 3, above. We wish also to call the attention of the Tribunal to Article 3 of the Kwantung Army Regulations enforced on and from April 12th, 1919, which provides: "The commander may resort to force when he deems it necessary for the defense of Kwantung Province and for the protection of the railways" (Ex. 2415, T. 19,554-19,555). This will show that HONJO acted within his authority when he decided at his own discretion to use force on the night of September 18th, 1931. Contrary to the allegation of the prosecution, MINAMI never attempted to whitewash himself and place all responsibility on the Supreme Command (NN-12). He frankly admits that he was responsible for all military administrative matters (T. 19,917-19,918, see Part II, Section 4, Para. 7, above). This fact is clearly endorsed by the provisions of Article 1 of the above-mentioned Regulations (see Para. 2, above). As to the operational matters, the War Minister was

collusion between the Cabinet and the Supreme

1 Command, He transmitted the wish of the Cabinet to
2 the Chief of the General Staff, but he could not
3 compel the latter to accept it. He cannot be held
4 responsible for matters which were under the exclusive
5 control of the Chief of the General Staff who was
6 directly responsible to the Emperor (see Part II,
7 Section 2, Para. 2, Notes (1)-(5); Section 4, Para. 15,
8 Notes (1) and (2), above). However, in spite of all
9 the difficulties, arising from the peculiar position
10 of the War Minister under the Japanese Constitution
11 (see our motion to dismiss, T. 16,460-16,463),
12 he succeeded in upholding the non-expansion policy
13 by prohibiting through the Chief of the General Staff
14 the dispatch of troops either to Harbin or to Chinchow.
15 On the other hand, he failed in restoring the status
16 quo in the face of the rapidly changing situation in
17 Manchuria, for it was humanly impossible for him to
18 stop the torrential overflow of a long pent-up antagon-
19 ism between China and Japan. That is why he resigned
20 on December 10th, 1931, after 83 days of a hard
21 struggle for the maintenance of the aforesaid Govern-
22 ment policy.
23

24 6. As to the hearsay reports of the HARADA
25 Memoirs, they are, in our submission, completely refuted

in our contention in Part II, Section 1, Para. 8,
1 above. We wish, in addition, to refer to the testimony
2 of ABO, who was the Navy Minister in 1931 and who
3 attended all the Cabinet meetings held until the
4 resignation of the Cabinet. He deposes that neither
5 at any of the said Cabinet meetings nor on any other
6 occasion did he hear War Minister MINAMI say such
7 words as withdrawal from the League of Nations or
8 determination to wage war against the whole world
9 (Ex. 3882, T. 38,707-39,709).

10 7. Our contention in Part II, Section 4,
11 above will meet the prosecution's allegations in
12 NN-14 to 22. TANAKA's testimony, quoted in NN-16, is
13 refuted by SHIDEHARA, as "a mischievous rumor"
14 (T. 33,551, see Part I, Para. 8, Note, above). The
15 fact that MINAMI fought for the principles of the
16 WAKATSUKI Cabinet and resigned together with the
17 Cabinet, have been testified by three ex-Ministers
18 of the said Cabinet, i.e., Premier WAKATSUKI, Foreign
19 Minister SHIDEHARA and Navy Minister ABO. There
20 remains only another member of the Cabinet, still
21 living in Kumamoto on the island of Kyushu, i.e.,
22 Home Minister ADACHI, who would have testified to the
23 same effect, although we could not produce his evidence
24 before the conclusion of our case. Furthermore, we
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1 pray the Tribunal to study carefully those we were
2 able to locate of the many telegraphic instructions
3 sent from MINAMI to HONJO (See Part II, Section 4,
4 Paras. 4, 5, and 13) and from SHIDEHARA to KUROASHIMA
5 (see Part II, Section 4, Para. 10). MINAMI's sincerity
6 to cooperate with the Cabinet and his anxiety to keep
7 the Kwantung Army within the bounds of propriety are
8 very well expressed in the correspondence produced
9 by both the prosecution and the defense. It is respect-
10 fully submitted, therefore, that to accuse MINAMI of
11 having approved aggressive actions in direct conflict
12 with the Cabinet policies (NN-17) or of having wanted
13 things to happen as they did in Manchuria (NN-20)
14 is nothing but a malicious interpretation of evidence
15 to incriminate him because of his position as Japan's
16 War Minister at that time.

17 8. There is another example of distortion
18 of fact by the prosecution in saying that "in view
19 of MINAMI's continued activity for the War Department
20 as a direct representative of War Minister ARAKI, his
21 report to the Emperor of his findings, and his being
22 "tutor" to Prince Kan-In, he was far from being the
23 inactive person he sought to paint himself" (NN-22).
24 He went on the inspection tour of Manchuria, of course,
25 "on order from War Minister ARAKI" (T. 19,922), because

1 he, as a military man, could not do there unless the
2 War Minister gave permission. Is there any evidence,
3 however, that he continued activity as a direct
4 representative of ARAKI? Would a military councillor
5 in his official capacity report to the Emperor at a
6 tea party? Then we see the quotation marks put to the
7 word "tutor" and the underline to the name Kan-In, we
8 cannot help but smile at the far-fetched imagination
9 of the prosecution. Is the prosecution suggesting
10 thereby that this Prince Kan-In was the man who
11 became the Chief of the General Staff after KANAYA
12 in 1932? We would like to suggest that the prosecution
13 should be more careful in reading the evidence, for
14 exhibit 2435 clearly shows the words: "as tutor to
15 the young Prince Kan-In" (T 19,790). The young
16 prince (named HARUHITO in the family of Kan-In) was
17 born in August 3rd, 1902, as the second son of the old
18 Prince Marshal Kan-In who succeeded KANAYA in the post
19 of the Chief of the General Staff. At that time, the
20 young prince was a lieutenant in cavalry, attending
21 the Military Staff College. MINAMI was appointed as
22 HARUHITO's tutor, for no other reason than MINAMI was
23 a cavalry veteran. It was, indeed, beyond our thought
24 that the prosecution would mix up the young and the
25 old, until we read the paragraph marked NN-22 of the

1 prosecution's summation. If the Tribunal thinks such
2 an obvious fact need proof, we are prepared to produce
3 it at any time.

4 9. The prosecution remarks that "his sudden
5 emergence as Commander of the Kwantung Army in
6 December, 1934, illustrates in no uncertain manner
7 his importance in the chain of events centering around
8 Manchuria . . ." (NN-22). His sudden emergence is no
9 wonder when we think about his seniority in the group
10 of generals at that time and also the policy of the
11 OKADA Cabinet towards Manchuria. Prosecution witness
12 OKADA testified that his cabinet was in opposition
13 to the army policy of the use of force in connection
14 with the expansion of Japanese influence in Asia
15 (T. 1,823-1,824, see Part II, Section 5, Para. 2,
16 Note (4) above). On the other hand, his sudden
17 emergence is quite conspicuous when we take into con-
18 sideration the testimony of prosecution witness
19 TANAKA that MINAMI was appointed to the post because
20 of his very amiable character and administrative
21 ability (see Part II, Section 5 Para. 2, Note (1)
22 above).

23 10. The question whether he exercised
24 "absolute control over the military and diplomatic
25 affairs of Manchukuo" (T. 19,963) or he exercised

~~such control "as far as Japan was concerned" (T. 19,962),~~

1 is, in our submission, not so important as the question
2 whether he exceeded his authority, given by the Japanese
3 Government and acknowledged by the Manchurian Govern-
4 ment. This question has been fully discussed in Part
5 II, Section 5, above. We wish only to point out the
6 mistake of the prosecution in alleging that "not
7 satisfied with this admitted system of control over
8 the internal and external affairs of Manchukuo, MINAMI
9 knew that such control was tightened by a preponder-
10 ance of Japanese on the General Affairs Board of
11 Manchukuo, . . ." (NF-23). It was MINAMI who abolished
12 the Special Service Department, which was initiated
13 at the time of TADA, then adviser to the War Depart-
14 ment of Manchukuo (Ex. 3378A, T. 32,357-32,372). We
15 shall quote, in order to avoid any misunderstanding,
16 the exact answer of prosecution witness TANAKA here-
17 under:
18

19 "Q Does the witness recall that there was a
20 special service unit in the Kwantung Army?

21 "A Yes.

22 "Q What type of work was this unit engaged in?

23 "A The object was to train the Manchukuoan
24 Army to maintain law and order in Manchukuo and, when
25 need arises, to fight for the defense of Manchukuo.

1 "Q Do you know that General MINAMI abolished
2 this special service unit?

3 "A Previously I thought you referred to the
4 military department. If it's the special service
5 department, I have another answer.

6 "Q I meant the special service department.
7 Then could you please explain where and what type
8 of work the special service department was engaged in?

9 "A When I first went to the Kwantung Army, it
10 was immediately after the special service department
11 was abolished. At that time, within the Kwantung
12 Army, the regular officers were actively engaged in
13 participating in economic and political affairs.

14 "Q Then, is it not true that the reason
15 General MINAMI abolished this special service depart-
16 ment was because regular army officers should not
17 indulge in politics?

18 "A Yes. Immediately after General MINAMI's
19 arrival to take over the post of Commander-in-Chief,
20 he immediately abolished this special service depart-
21 ment in order to remove the evils of the practice of
22 meddling in politics inasmuch as he felt that it
23 would lead to the corruption of the army itself"
24 (T. 2,117-2,118, see also Part II, Section 5, Para. 3,
25 Note (1), above; as to the allegation in NN-24, see

ditto, Note (3), above).

1 11. The prosecution's allegations in E-1
2 to 19 and NN-25 to 29 are met by our contention in
3 Part II, Section 6. Concerning the question of Inner
4 Mongolia, we beg to refer to the contention in our
5 motion to dismiss (T. 16,479). Even the prosecution
6 admits: "At the time, relations between China and
7 Japan were rather good. According to defense witness
8 KUROASHIMA, the North China situation had been generally
9 calm, and on May 17, 1935, it had been decided to
10 raise the Japanese legation in China to an Embassy"
11 (E-2). Then, why the prosecution is "prone to raise
12 a storm in a teacup" (E-2), by inferring a sinister
13 meaning from newspaper reports of the meeting at
14 Hsinking of HAYASHI, MINAMI and UMEZU on or about
15 June 1st, 1935? (E-6). It was, indeed, a "routine
16 business" for UMEZU to meet War Minister HAYASHI at
17 Hsinking on May 29th, when the latter came "to inspect
18 conditions in Manchuria" (NN-25). How could MINAMI
19 have prevented the coming of the one or the other?
20 We have heard many times the prosecution's assertion
21 that the guilt of the accused would be proved beyond
22 reasonable doubt, but we cannot accept the above-
23 mentioned inference of the prosecution as evidence
24 without doubt. As to the allegation in NN-29 vis-a-vis
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the U.S.S.R., we have already argued fully in
1 Part III above.

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12. As to the allegation in NN-30, concerning MINAMI's letter to UGAKI, we wish to refer the Tribunal to PART II, Section 7, Paragraph 2, above. As to that of NN-31, we beg to refer to PART I, Paragraph 11, above. The prosecution maintains that MINAMI received from Hitler a decoration only two or three other Japanese had ever received, (NN-31) but where is such an evidence that it was only two or three Japanese who received the German decoration? The prosecution has never produced even the citation for such reward. (T. 20,017)

13. The allegation in NN-32 is fully refuted by our contention in PART IV above. We regret, moreover, the disregard of the prosecution of any language correction, such as evidenced in NN-32. Exhibit 1973 never mentioned "the Governor-General," (T. 14,512) the designation to which the prosecution seems to stick forever in conjunction with the P.O.W. questions in Korea. As to the allegations in NN-33 and 34, we have argued in detail in PART I, Paragraph 12, and PART III, Paragraphs 6 and 7, above.

14. It is alleged in NN-3: "In viewing the important assignments and appointments of MINAMI from 1927 to 1945, it becomes apparent that between those dates, he was in positions of great authority,

where policy making was required, and where action
1 had to be taken either to advance or halt acts of
2 military aggression." May we ask then whether there
3 is any evidence that he took an active part in such
4 acts of military aggression? Is there any proof that
5 "his dealing with KOISO, TATEKAWA, NINOMIYA and others"
6 conspired to secure domination for Japan in Manchuria,
7 China or elsewhere? (NN-35) Is there any evidence that
8 he approved the expanding movements in Manchuria, Mon-
9 golia and North China? (NN-35) Is there any evidence
10 that he waged wars of aggression against China while
11 he was War Minister and as Commander of the Kwantung
12 Army? (NN-35) Is there any evidence that he took
13 any part in having British and American P.O.W.s brought
14 to Korea for illegal purposes? (NN-35) Should he be
15 blamed for his acts done in the natural course of his
16 duty in every stage of his career? Indeed, he was
17 unfortunate in holding such offices as termed by the
18 prosecution "of crucial importance." (NN-3)

20 In view of the charges specifically made
21 against MINAMI by the U.S.S.A. prosecutors, we wish
22 to add the following remarks:

23 15. The prosecution alleges: "MINAMI's
24 proposal to the effect that the Sea of Japan should
25 be transformed into the Lake of Japan obviously

contemplated the incorporation into Japan of the
1 Soviet Maritime Province, the shores of which are
2 washed by the Sea of Japan." (H-31) This matter has
3 been already discussed in PART II, Section 4, Paragraph
4 18, Notes (1) - (3), above. The words of MINAMI at
5 the Imperial tea party of January 28th, 1932, "to
6 make the Sea of Japan into a lake," were merely a
7 figurative description to bring to that area the calm
8 and peaceful condition of a lake. To attribute thereto
9 any sinister meaning, such as a territorial ambition
10 vis-a-vis the Soviet Maritime Province, is too far
11 fetched to be taken seriously.
12

13 16. The prosecution also alleges: "During
14 his cross-examination, the defendant MINAMI admitted
15 that during the time he held the post of Commander-in-
16 Chief of the Kwantung Army intensive construction of
17 railroads was going on in Manchuria and that those
18 railroads were built in the direction of the Soviet
19 border." (H-44) What MINAMI admitted was that such
20 railroads aimed principally at the opening up of
21 Northern Manchuria. (T. 19,951) Supposing, however,
22 that they were being constructed for strategic pur-
23 poses, there is no reason why MINAMI should be blamed
24 for their construction. In view of the double-tracking
25 of the Siberian Railways and the fortification of the

Soviet provinces surrounding Manchukuo, (ITAGAKI, Ex. 3316, T. 30,287) the latter had to take into consideration the possibility of a Soviet attack, whose strength in the Far East was four times as large as that of the Kwantung Army in 1934-1935, (T. 30,287) that is to say, the Soviet troops in the Far East amounted to 230,000-240,000 men, (Ex. 2681, T. 23,550) while the Kwantung Army had 60,000 men. (Ex. 2207, T. 15,785) Manchukuo, as a sovereign country, had the right to defend herself by necessary preparations and the Kwantung Army was duty bound under the treaty to assist her. If such a preparation were to be held as a crime, there would be no security for any country in the execution of its defense program.

17. It is alleged by the prosecution that MINAMI confirmed that in case war should break out between Japan and Russia, Manchuria would be necessary as a military base against Russia. (H-52) The prosecution quotes the testimony of KAWABE, who stated: "We planned only a basic plan in anticipation of encounters on the frontiers of South and North Manchuria and we were thinking of making a defensive stand in northern Korea," (T. 17,049) and then the prosecution asserts: "It stands to reason that the planned clash with the Soviet Army on the border with Northern

1 Manchuria could take place only in case a preliminary
2 occupation of the whole of Manchuria by the Japanese
3 troops." (H-52* It is beyond our comprehension how
4 the encounters on the frontiers of South and North Man-
5 churia, anticipated by KAWABE, could not take place
6 without a preliminary occupation of the whole of
7 Manchuria by the Japanese troops. Obviously KAWABE
8 presupposed the occupation of North Manchuria by the
9 Soviet troops, with whom the Kwantung Army (already
10 stationed in South Manchuria by treaty right) would
11 encounter on the border between North and South Man-
12 churia. It stands to reason, therefore, that in such
13 a case the flank of the Kwantung Army would be exposed
14 to the Soviet thrust from the Maritime Province which
15 borders northern Korea and that the making of a defen-
16 sive stand there would become most essential.

17 18. As Manchuria was a region, the integrity
18 of which constituted a special and vital interest for
19 Japan's safety, her freedom of action in defending that
20 region could not be prejudiced by any treaty, if we
21 follow the words of Mr. Chamberlain. (See PART I,
22 Paragraph 3) It was natural for Japan to have plans
23 for defense of that region. To borrow the words of the
24 prosecution in H-61, we submit that the prosecution is
25 "fundamentally wrong in discussing and criticising such

measures of defense." The prosecution attacks the
1 probative value of defense exhibit 2681, a table on
2 the approximate strength of the Soviet troops in the
3 Far East during the period of 1931-1943, (H-60) but
4 what about prosecution exhibits 717, (H-39) 712, (H-44)
5 716 (H-45) and other documents, which are prepared by
6 the Soviet Army General Staff? We have seen many a
7 case where two bordering countries indulged in blaming
8 each other for the increase of military strength.
9 Should we concede that a war of aggression may be
10 decided by the firing of the first shot, how can we de-
11 termine the aggressiveness of a defense plan of one
12 country any more than that of the other? It is respect-
13 fully submitted that international law has not only
14 never condemned such planning or preparation but recog-
15 nized its legitimacy as the exercise of the sovereign
16 right of an independent country. Is the manufacture
17 of atomic bombs a preparation for aggressive war or
18 defensive war? What difference is there between this
19 preparation and the construction of railways and mili-
20 tary bases in Manchuria, alleged by the prosecution?
21 In our submission, no earthly tribunal can adjudge
22 this kind of question.
23

24
25 19. As to the allegations in H-66 and 67,
concerning MINAMI's letter of October 6th, 1927,

1 (Ex. 2436, T. 19,943) we have already dealt with it
2 in PART I, Paragraph 1, Note (1), and PART III, Para-
3 graph 1, above. Not only the letter was written beyond
4 the time limit of the Indictment, but its purport was
5 for the purpose of gathering information which was and
6 is permissible under international law. As to the
7 allegation in H-198, that "from the beginning to the
8 end of MINAMI's military and political career he re-
9 mained an organizer of aggression against the peoples
10 of the Soviet Union and other peace-loving nations,"
11 we must reply that throughout his career MINAMI never
12 formulated or participated in any plan or organization
13 which aimed at Japan's territorial expansion towards
14 the Soviet Union or towards any other country. On the
15 contrary, his policy was always defensive and conserva-
16 tive, putting restraint on radical ideas and direct
17 actions of the younger generation to the best of his
18 ability. The fact that no trouble arose between the
19 U.S.S.R. and Japan during the time when he was the
20 Vice Chief of the General Staff, the War Minister and
21 the Commander of the Kwantung Army is the best evidence
22 to refute the prosecution's allegation. After his re-
23 tirement from the army in 1936, his positions were
24 obscure and relatively unimportant.
25

20. The revised statement of the prosecution

in NN-29 alleges: "During his stay in Manchuria
1 MINAMI fostered the activities of the Kyo-Wa-Kai so-
2 ciety in the matter of preparing the population of the
3 country for a war with U.S.S.R. and continued person-
4 ally to guide the subversive activities directed against
5 the Soviet Union in using the Kharbin Special Service
6 Organ subordinated to him for this purpose." Where
7 is the evidence to support such an allegation? The
8 prosecution cites exhibit No. 731 (reference to
9 transcript should be T. 6,605 et seq, not T. 3,853),
10 but this exhibit mentions only that "General MINAMI
11 and General NISHIO and a number of other representa-
12 tives of higher authorities issued special direct-
13 ives concerning the intrinsic nature of the Kyo-Wa-Kai,"
14 without showing the contents or even the dates of such
15 directives. (T. 7,608) The exhibit is a book, published
16 in Kharbin in 1942, that is to say, six years after
17 MINAMI left Manchuria and his post of the Commander
18 of the Kwantung Army. The compiler of the book is
19 the so-called "Chief Russian Emigrants Bureau in the
20 Manchurian Empire" (T. 7,605) but there is no evidence
21 that the said Bureau "was used by the Kharbin Special
22 Service Organ for activities hostile to the Soviet
23 Union," as alleged by the prosecution in NN-29, nor
24 that MINAMI had any connection with the said Bureau

1 or with its activities. Whether or not the book shows
2 a photograph of MINAMI as "Commanding General of the
3 Kwantung Army," (T. 7,615) is entirely immaterial and
4 irrelevant, because anybody could print his photographs
5 with a caption as to his title.

6 On the contrary, MINAMI testified as follows:
7 "I was bitterly opposed to the Concordia Society (i.e.
8 Kyo-Wa-Kai) and as soon as I assumed my post as Com-
9 mander of the Kwantung Army the Concordia Society,
10 which had grown by leaps and bounds up to then, sudden-
11 ly had to stop its activities. . . .The reason for my
12 opposition to the Concordia Society was that if such
13 an association was established while the country was
14 still very young and before local administrations had
15 been firmly established, various functions of the party
16 would conflict with government policies while some
17 might even be considered government spies. . . .That is
18 to say, this system would inaugurate a system of one
19 country and one party. Therefore, I was opposed to the
20 Concordia Association." (T. 19,968-9) Although he never
21 sent or made any representations to Manchukuo concern-
22 ing the Concordia Society, "it did not develop", be-
23 cause of his attitude, while he was the Commander of
24 the Kwantung Army. (T. 20,072)

25 Thank you.

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THE PRESIDENT: Mr. Yamaoka.

1 MR. YAMAOKA: May it please the Tribunal, I
2 now present the individual summation on behalf of
3 Koki HIROTA.

4 Mr. Koki HIROTA has been prosecuted on forty-
5 eight (48) counts of the fifty-five counts set forth
6 in the alleged Indictment.^{1.} It must now be crystal
7 clear to the Tribunal after nearly twenty (20) months
8 of testimony and the consideration of thousands of
9 documents that the prosecution has palpably failed to
10 sustain as against this accused any single one of those
11 counts. At the time the general opening statement on
12 behalf of the defense was presented Mr. HIROTA an-
13 nounced through counsel that he did not concur with
14 that statement and that he would rely upon his indi-
15 vidual opening statement to explain his special
16 position in this case.^{2.} The reason for that position
17 was that the general opening statement on behalf
18 of the defense dealt with many matters with which
19 Mr. HIROTA did not have the slightest connection;
20 in other words the general opening statement sought to
21 prove too much as far as Mr. HIROTA is concerned. The
22 accused is willing to accept full responsibility for
23 1. Counts 1 to 17, 19 to 25, 27 to 35, 37 to 47, 52
24 to 55.
25 2. T. 17006.

1 events which occurred during the times he occupied
2 high office in so far as they relate to situations
3 which he had the power to direct or control.

4 Mr. HIROTA was born a commoner in Fukuoka,
5 Kyushu, on February 14, 1878; after completing the
6 regular course in the university, he entered upon a
7 diplomatic career in 1906 and remained in that service
8 for twenty-seven (27) consecutive years until 1932;
9 he never occupied an office in the army or navy. He
10 served in the diplomatic service in the United States,
11 England, China, Holland and the Soviet Union; he also
12 occupied important posts in the Foreign Ministry at
13 home. In 1932 he was relieved of his post as Ambassa-
14 dor to the Soviet Union and returned to private life.
15 On September 14, 1933, he was appointed as Foreign
16 Minister in the SAITO Cabinet; this appointment came
17 as a complete surprise; ^{3.} he continued as Foreign
18 Minister in the succeeding OKADA Cabinet which fell
19 as a result of the so-called "February 26" Incident.
20 He was summoned by His Majesty as Premier on March 9,
21 1936 in the dark and uncertain days that immediately
22 ensued and succeeded in forming a cabinet after a
23 lapse of a number of days. His cabinet fell on
24 February 1, 1937 as a result of his flat refusal to
25

3. Exhibit 3236 (T. 29447).

1 dissolve the Diet on the demand of War Minister
2 TERAUCHI who had been engaged in a heated discussion
3 with HAMADA, a prominent member of the Diet, over
4 matters which have possible relation to the indictment
5 in this case. On February 1, 1937, he returned again
6 to private life, without thought or ambition for further
7 public office or responsibility, and thoroughly dis-
8 mayed at the internal and political situation in
9 Japan which functioned under what was in essence two
10 (2) sovereign and autonomous governments; that is to
11 say, the civil government on the one hand and the
12 Supreme Command on the other. In June 1937, when
13 Prince KONOYE formed his First Cabinet just about a
14 month before the Marco Polo Bridge Incident, Mr.
15 HIROTA was ardently solicited by the Prime Minister
16 and Prince SAIONJI, the last Genro, to join that
17 cabinet as Foreign Minister. As has been pointed out
18 in the opening statement on behalf of this defendant,
19 Prince SAIONJI was of the opinion that Mr. HIROTA
20 would lend strength and balance to that cabinet. He
21 resigned that post on May 26, 1938, never again to
22 return to high office in Japan and without any ambi-
23 tion whatsoever in that respect.
24
25

During the time Mr. HIROTA held those offices
a number of vexatious events occurred which the

1 prosecution contends with startling imagination and
2 ingenuity have relevance to the sweeping allegations
3 contained in the alleged Indictment; they are, for
4 example, termination of the Washington Naval Treaty
5 in accordance with its provisions; the passage by the
6 cabinet of the ordinance limiting the posts of ministers
7 of war and navy to men in active service, which had
8 been the practice both before and after the ordinance;
9 the withdrawal from the London Naval Conference after
10 long and fruitless discussion; the conclusion of the
11 Anti-Comintern Pact; and finally the China Affair.
12 The great preponderance and, indeed, the overwhelming
13 weight of the evidence shows that none of those occur-
14 rences have any connection with a "common plan or
15 conspiracy" or were in any single instance by causes
16 or intentions which were aggressive in nature; and,
17 assuming arguendo that such a strained interpretation
18 could be placed on those events, viewed separately or
19 in the aggregate, there is not a jot of evidence in the
20 case to show that Mr. HIROTA, as an individual, was
21 motivated by any such intention or purpose as is
22 alleged in the Indictment.

23
24 A number of the counts in the Indictment
25 against Mr. HIROTA deal with matters which occurred
during the time he held no official position in the

1 Japanese Government. They are, for example, count 25,
2 which deals with skirmishes with the armed forces of
3 the Soviet Union at Lake Khasan in July and August
4 1938; count 46, which deals with an attack on Canton
5 about October 21, 1938; and count 47, which deals with
6 an attack on Hankow about October 27, 1938. As
7 Mr. HIROTA held no office at the time those events
8 occurred and there is no evidence that he had any
9 relationship to those events as a private individual,
10 it is obvious that he cannot be held responsible under
11 the foregoing counts. Mr. HIROTA is also named in a
12 number of counts which relate solely to matters which
13 occurred at the inception or during the continuance of
14 the Pacific War. Since the accused had been a private
15 citizen ever since May 1938 and the prosecution made
16 no effort to show that he had anything to do with a
17 "common plan or conspiracy," to initiate or wage such
18 a war or anything to do with events which transpired
19 during the continuance of that war, it is difficult
20 to understand why Mr. HIROTA was named in those counts
21 unless it be that the prosecution was simply throwing
22 out a dragnet.
23

24 Mr. HIROTA was a State Councillor from March
25 to August 1940 during the tenure of the YONAI Cabinet.
All the evidence in the case shows that such a position

1 was entirely of an advisory nature and carried no
2 authority or responsibility. What is more important,
3 the prosecution failed to offer a single line of evi-
4 dence to show that anything Mr. HIROTA said or did as
5 a State Councillor in the YONAI Cabinet had any relation
6 to the allegations in the Indictment. It will be made
7 clear later in the argument that the advice given by
8 Mr. HIROTA as State Councillor to Admiral YONAI had no
9 bearing whatever upon the Pacific War.

10 With respect to the position Mr. HIROTA took
11 as a so-called "senior statesman," it will be made
12 clear in the subsequent argument that he exerted his
13 best efforts to avert the Pacific War, as he had
14 uniformly exerted his efforts during the days he held
15 high office to avert war and promote the spirit of
16 peace, harmony and cooperation among all nations.

17 The remainder of the argument will be broken
18 down into appropriate sections for the ready reference
19 and understanding of the Tribunal.

20 SECTION 1

21 THE GENERAL POLICY, ATTITUDE AND VIEWS OF
22 MR. HIROTA THROUGH PUBLIC SERVICE.

23 1. A hundred different pieces of evidence
24 in the case show beyond all reasonable doubt that
25 Mr. HIROTA has been a man of peace all his life.

1 Having served at important diplomatic posts throughout
2 the world he acquired a vast experience with respect
3 to conditions within all the larger nations. He has
4 been awarded high decorations by the Governments of
5 France, Russia, China, Great Britain, Belgium, and has
6 been decorated by his own government on many occasions
7 for distinguished service. On November 22, 1926, he
8 was appointed Minister to the Netherlands where he
9 remained until October 15, 1930, at which time he was
10 appointed Ambassador to Moscow. The prosecution made
11 no effort to prove that Mr. HIROTA said or did any-
12 thing at his post in the Netherlands which has any
13 relation to the allegations in the Indictment. During
14 his tenure in Holland he proposed the idea of a
15 Treaty of Judicial Settlement, Arbitration and Media-
16 tion with Japan, which was signed but never ratified
17 by Japan until Mr. HIROTA became Foreign Minister and
18 personally pushed the ratification. On August 7, 1929,
19 he was appointed Japanese delegate to the conference
20 held at the Hague with respect to German reparations.
21 During Mr. HIROTA's service as Ambassador to Moscow
22 from October 15, 1930 until November 19, 1932, he was
23 engaged in solving piece by piece various outstanding
24 questions between the two governments; at that post
25 even the Russians liked and trusted him and the

1 prosecution has failed to produce a single piece of
2 evidence to show that during his Ambassadorship to
3 Moscow he said or did anything whatever which has any
4 relation to the allegations of the indictment.

5 2. At the time Mr. HIROTA became Foreign
6 Minister for the first time in September 1933 the
7 internal situation and international relations of Japan
8 were far from bright. Japan had already withdrawn
9 from the League of Nations. Mr. HIROTA had nothing
10 whatever to do with the decision to withdraw from the
11 League of Nations and when he first came to the Foreign
12 Ministry he was confronted with an accomplished fact
13 in that regard. Following the decision of the League
14 and the withdrawal of Japan, the leading nations of
15 the world, notably the United States and Great Britain,
16 adopted toward Japan what might be appropriately de-
17 scribed as a "cold shoulder" attitude. In September
18 1933 Japan was virtually isolated from the family of
19 nations although His Majesty had been careful to point
20 out in the Imperial Rescript that withdrawal from the
21 League in no sense implied that Japan would not cooperate
22 in a spirit of harmony and conciliation with all nations.
23 Confronted with this attitude on the part of the nations,
24 Mr. HIROTA set about, as best one man can, to improve
25 the relations of Japan with the entire world, especially

relations with the United States, Great Britain,
4.

1 USSR, and China.

2 On the domestic front Japan was just begin-
3 ning to recover from the disastrous economic depres-
4 sion of 1930. Japan being a country poverty stricken
5 in essential natural resources was compelled to promote
6 its foreign trade or go under as a modern nation. The
7 economic situation existing throughout the thirties
8 was precisely the same as the situation which the
9 Supreme Commander described recently, "Japan must
10 trade or starve." Faced with the constantly increas-
11 ing population, insufficient land for cultivation and
12 the "cold shoulder" attitude of the nations after
13 Japan's withdrawal from the League, it stimulated and
14 stirred up elements within the military, mostly junior
15 officers and ordinary enlisted men, and segments of the
16 population to chauvinistic attitudes and movements.

18 3. The cornerstone of Mr. HIROTA's foreign
19 policy from first to last was harmony, cooperation,
20 and peace with all nations; he boldly expressed this
21 policy in the Diet and on various occasions in the
22 newspapers of Japan; and for this reason his diplomacy
23 was popularly called "conciliatory diplomacy" by way

24 4. Exhibit 3866 (T. 38598), exhibit 3237 (T. 29452-61)
25 and exhibit 3869 (T. 38639).

of contrast with the so-called "burnt ground" diplomacy
5.
1 of his predecessor, Count UCHIDA.

2 4. Foreign Minister HIROTA made extraordinary
3 efforts to improve relations with the United States
4 and Great Britain from first to last (September
5 1933 - May 1938). United States Ambassador Grew
6 said under oath that as early as September 18, 1933,
7 the Foreign Minister told him that improvement of
8 Japanese-American relations was the cornerstone of
9 his foreign policy and that it had been the primary
10 reason for his acceptance of the appointment as
11 Foreign Minister which had come as a complete surprise. 6.
12 Again, in his first address as Foreign Minister at the
13 Diet in January 1934, he emphasized in pleading terms
14 that both the government and people of Japan earnestly
15 desired to maintain neighborly friendship with the
16 United States and he expressed his high hope that the
17 United States might come to understand the complicated
18 and peculiar state of affairs in the Far East; he
19 referred also in like vein to the maintenance of the
20 long-standing friendly relations with Britain. 7.

22 5. Exhibit 3241, affidavit of KUWASHIMA, paragraph 2
23 (T. 29481-82).

24 6. Exhibit 3236 (T. 29447).

25 7. Exhibit 3237 (T. 29451).

5. In March 1934 he sent a personal message
1 to Secretary of State Hull saying "No question exists
2 between our two countries that is fundamentally
3 incapable of amicable solution," to which the Secre-
4 tary made a cordial reply.⁸ In his address at the
5 Diet in January 1935 and again in that of January 1936
6 he repeatedly emphasized the desire on the part of
7 the government for friendly relations with the United
8 States, Britain and all other countries.⁹ These
9 statements of peaceful intention were pious enough;
10 and the Tribunal speaking through its President conceded
11 that all of Mr. HIROTA's public statements were con-
12 ciliatory even to the point of being "pregnant" in that
13 respect. Those public statements, reinforced as they
14 are by many private statements, both in and out of
15 the Diet, leave no room for saying that Mr. HIROTA's
16 addresses and remarks were artifice or statements
17 intended to cover up treacherous designs on the part
18 of the Japanese Government. The prosecution is
19 unbelievably cruel when, speaking through one of its
20 prosecutors, Mr. HIROTA is described as being "clever"
21 and "smooth" in a malignant sense. The foregoing
22 statements of Mr. HIROTA in the Diet and on other
23

24 8. Exhibit 3239 (Tr. 29,468).
25 9. Exhibit 3247 (Tr. 29,591) and exhibit 2434
(Tr. 19,728).

1 occasions repeatedly expressing his desire for the
2 maintenance of friendly relations with the United States,
3 Britain, China and the Soviet Union were powerful
4 demonstrations for the maintenance of the peace of the
5 world, especially when it is realized that the statements
6 were made when public opinion in Japan was sharply
7 divided, chauvinistic movements were growing and the
8 press of Japan was inclined in sporadic instances to
9 play up news items along ultranationalistic lines.

10 6. The fact that Mr. HIROTA was a liberal
11 and real pacifist and actually worked very hard toward
12 the realization of harmonious relations with all coun-
13 tries has been and is recognized today by all the dip-
14 lomats and correspondents who came in touch with him.
15 For example, Ambassadors Grew and Craigie, who must
16 have felt uneasy from the standpoint of international
17 relations to witness certain kinds of activity in
18 Japan and actually lodged protests with the Foreign
19 Minister with respect to it, were well aware that
20 Mr. HIROTA was a pacifist and would use his best efforts
21 to control such situations; they also knew that
22 Mr. HIROTA was using foresight to prevent the occur-
23 rence of such situations; and the diary of Ambassador
24 Grew, the accounts by Ambassador Craigie and other
25 foreign diplomats which have been produced as evidence

demonstrate the foregoing statements fully. Even the
1 Soviet Ambassador Yurenev mentioned Mr. HIROTA and
2 Prince SAIONJI as liberals.¹⁰

3 7. When Mr. HIROTA was first appointed Foreign
4 Minister in September 1933, the fundamental policy
5 of Japan toward Manchuria had already been decided by
6 preceding cabinets and was actually being carried on.
7 He was confronted by a fait accompli which did not lay
8 in the power of anyone in Japan to easily move or
9 change.¹¹ The independence of Manchoukuo had been
10 recognized by the Japanese Government one year before,
11 and the basic treaty with that country had been concluded.
12 Before Mr. HIROTA assumed his first office as Foreign
13 Minister the Japanese Government had decided on
14 August 8, 1933, that it would recognize a form of
15 monarchy in Manchoukuo;¹² this is nothing more than a
16 mere acknowledgment of the previously established
17 policy although it was actually promulgated after the
18 appointment of Mr. HIROTA as Foreign Minister.¹³ In
19 these circumstances it was thoroughly impossible for
20 Mr. HIROTA, as well as any other single person in
21 Japan, to overrule the fundamental policy which had
22
23 10. Grew Diary, March 9, 1934, ex. 3240 (Tr. 29,473).
24 11. Tr. 1890-91.
25 12. Gist of policy toward Manchoukuo, ex. 233
(Tr. 2926).
13. Exhibits 234 - 437 (Tr. 2933, 5015).

1 been already decided after elaborate consideration by
2 the Japanese Government and the Diet. Under such con-
3 ditions Mr. HIROTA did all that was possible to ease
4 the friction with other countries arising out of the
5 Manchurian Incident, but his efforts were confronted
6 from the beginning by various obstacles. Here it
7 ought to be recalled that living within the borders of
8 Manchoukuo were two hundred thousand (200,000) Japanese
9 and eight hundred thousand (800,000) Koreans who were
10 living in the midst of twenty-seven million (27,000,000)
11 Chinese, Manchus, Mongolians and White Russians; and
12 that the Japanese Government and Japanese citizens had
13 long-standing legitimate investments in Manchoukuo of
14 vast proportions. The Lytton Report amply discloses
15 the chaotic conditions, banditry which was rampant,
16 etc., which jeopardized these valid Japanese interests --
17 a parallel existing nowhere else in the world. The
18 competence of the Foreign Minister with regard to
19 the problems of Manchoukuo was largely restricted by
20 law and much more in practice. The post of Ambassador
21 to Manchoukuo was held additionally by the Commander
22 of the Kwantung Army. In essence all that the Foreign
23 Minister could direct were matters related to so-called
24 genuine diplomacy; that is to say, matters of protocol,
25 treaty procedure, and so forth. The real authority

1 from the standpoint of the Foreign Ministry was always
2 in the hands of the Kwantung Army which was utterly
3 beyond the control of the civil side of the government.¹⁴
4 The Bureau of Manchurian Affairs¹⁵ was created with a
5 view to improving such a state of affairs, but the
6 already-established status from a practical standpoint
7 was hardly ameliorated by that maneuver. The appoint-
8 ment of the Japanese-Manchoukuo Joint Economic Com-
9 mittee with an equal number of representatives on each
10 side was also set up in 1935 as an additional step for
11 the same purpose, the idea being to make Manchoukuo
12 fully sovereign and independent in fact as well as in
13 the eyes of third powers. He agreed to the formation
14 of the Joint Economic Committee in 1935 and surrender
15 by Japan of all extraterritorial rights in favor of
16 Manchoukuo in 1937, in order to neutralize the influence
17 of the Kwantung Army and to make Manchoukuo a sovereign
18 and independent nation in both form and substance.
19 There is no evidence in the case that the Foreign Minis-
20 ter had anything whatever to do with the installation
21 of Henry Pu-Yi as Regent. Likewise the Foreign Minister
22 had nothing whatever to do with the arrangements for
23 or subsequent coronation of the Regent. As Mr. HIROTA
24
25 14. Witness Former Premier OKADA, ex. 175 (Tr. 1813),
Witness TANAKA, Ryukichi (Tr. 1945).
15. Exhibit 451 (Tr. 5112).

was Ambassador to Moscow when the Mukden Incident occurred it should be noted that there is not a line of testimony in the case that he knew anything about any alleged Japanese Army plan in connection with the incident and that all the evidence in the case, including the testimony of Foreign Minister SHIDEHARA, shows that the Foreign Ministry and its staff had no connection whatever with the Mukden Incident or with any of the circumstances by reason of which Henry Pu-Yi became Regent. As the Foreign Ministry had no connection with the matter it is certain that Mr. HIROTA had no part in it.

8. While Mr. HIROTA was Foreign Minister several protests were lodged by third powers with respect to economic questions in Manchuria; the Government of the United States lodged several protests with the Japanese Government with respect to the so-called oil monopoly established by the Manchoukuo Government for the purpose of insuring a storage of six months' supply of oil at all times for the purpose of national defense. These protests lodged with the Foreign Minister placed him in an embarrassing situation. The Japanese Government had already recognized Manchoukuo 16. Exhibits 939, 941 and 965 (Tr. 9406, 9413 and 9481).

1 as a solvent and independent nation; the United States
2 and other powers had withheld recognition; and in that
3 situation the United States and other powers aired all
4 their complaints about economic questions and the so-
5 called "Open Door" by using Japan as a sort of whipping
6 boy. Of course, the Japanese Government could not
7 accord full satisfaction to those complaints, assuming
8 arguendo they had any real merit or basis, without
9 fundamentally denying the sovereignty of Manchoukuo.
10 In other words, third powers by lodging their protests
11 with the Japanese Government were really calling upon
12 Japan to reduce Manchoukuo to a puppet in fact. As
13 the Foreign Minister had been striving constantly from
14 1933 through February 1, 1937 to take the last vestige
15 of Japanese fingers out of the internal economy and
16 Government of Manchoukuo, the Tribunal will readily
17 perceive a great dilemma and even paradox. Moreover,
18 an examination of the protests lodged by the United
19 States with respect to violation of the so-called
20 "Open Door" in Manchuria reveals that they were essen-
21 tially devoid of any merit; the decision of the Man-
22 choukuo Government to establish control over oil for
23 purposes of insuring an adequate supply of oil for
24 national defense in no sense involved a denial of "equal
25 opportunity." There is abundant evidence in the case

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23 purposes of insuring an adequate supply of oil for
24 national defense in no sense involved a denial of "equal
25 opportunity." There is abundant evidence in the case

1 that the so-called oil monopoly was not a monopoly at
2 all. Moreover, Mr. HIROTA told Ambassador Grew that
3 the French had sent commercial representatives to
4 Manchoukuo and it would be well if the United States
5 did likewise; but as the United States and other
6 powers maintained a stand-off and non-recognition
7 attitude toward Manchoukuo and the evidence reveals
8 that none of the powers were really interested in exploit-
9 ing commercial opportunities in Manchoukuo, the whole
10 issue of those protests could be relegated to the aca-
11 demic and technical category. It should be borne in
12 mind that in the face of these protests, whether they
13 be regarded as substantial or otherwise, Mr. HIROTA
14 repeatedly assured the powers that Japan respected the
15 Nine-Power Pact, the principle of the "Open Door,"
16 and would not place any obstacles in the path of the
17 full realization of the aim and purpose of that pact.
18 The argument has dealt with concrete instances of the
19 difficulties arising between Japan and the United States
20 over the respective points of view with regard to Man-
21 choukuo because those protests threatened to disturb
22 the Foreign Minister's program for the over-all better-
23 ment of diplomatic relations with all countries.
24 Mr. HIROTA went to great pains to have the powers,
25 17. Exhibit 3716 (Tr. 37,000-01).

1 especially the United States, fully understand the
2 complicated state of affairs in East Asia and requested
3 the assistance of foreign diplomatic representatives
4 to avoid any aggravation of national sentiments arising
5 from a fundamental misunderstanding; ¹⁸ at the same time
6 he endeavored as far as possible to remove the causes
7 of friction and misunderstanding.

8 9. Reference will be made in another section
9 to the Foreign Minister's efforts in basically adjust-
10 ing relations with China which had been on the verge
11 of rupture both before and after the Mukden Incident
12 and also to his efforts to solve some of the compli-
13 cated questions which threatened to affect good rela-
14 tions with the Soviet Union. ¹⁹

15 Witness again that in 1935 Mr. HIROTA dis-
16 patched Ambassador DEBUCHI to Australia and New Zealand
17 to return courtesies by reason of the visit to Japan
18 of Australian Foreign Minister Latham for the purpose
19 of strengthening friendly ties. ²⁰ As a result, direct
20 diplomatic relations were for the first time established
21

22 18. Ex. 3237 (Tr. 29,451).

23 19. Exs. 3247 and 3248 (Tr. 29,591, 29,601).

24 20. In reporting these facts to the Diet in January
25 1936, HIROTA said, "As for the South Seas Islands, our
Empire looks forward to promoting amicable relations
expecting the development of our commercial intercourse
with them. From this point of view we heartily aspire
to a satisfactory development of the Philippine Common-
wealth which has lately been founded." Ex. 2434

(Tr. 29,641).

between Australia, Canada and Japan.

1 10. The discussion thus far has dealt with
2 the outline of the foreign policy pursued by Foreign
3 Minister HIROTA in the SAITO and OKADA cabinets. The
4 question of naval disarmament will be dealt with in
5 another section. All these manifold efforts on the
6 part of Mr. HIROTA between September 1933 and March 1,
7 1936 bore fruit in the form of general improvement of
8 Japan's international relations and Japan was gradually
9 recovering from its isolated position. The foreign trade
10 of Japan was also showing rapid improvement.
11

12 11. While the diplomacy of Mr. HIROTA was
13 making progress, a handful of extremists in the army,
14 consisting of a few officers below the rank of major
15 and enlisted personnel staged the wholly unexpected
16 "February 26" Incident. Of course, all the evidence
17 in the case shows that the civil government had nothing
18 to do with the origin or execution of the incident and
19 drastic punishment was meted out to the offenders after
20 trial by court-martial. The War Ministry, shocked at
21 the lack of discipline within the army, immediately
22 set about to restore discipline. The effort to assass-
23 inate Premier OKADA and the general excitement caused
24 the downfall of the OKADA Cabinet. Mr. HIROTA
25 received the Imperial mandate to form a new ministry

1 in March 1936 and the new ministry was charged with
2 the responsibility for the purification of military
3 circles and the establishment of a peaceful foreign
4 policy.²¹ Of course, it is sheer nonsense to contend
5 that Mr. HIROTA was appointed Premier in order to per-
6 mit the Supreme Command to gain the upper hand or to
7 perpetuate any of the notions entertained by the
8 faction in the army which staged the "February 26"
9 Incident. Mr. HIROTA appointed Mr. ARITA as Foreign
10 Minister, and ARITA promptly announced that he would
11 follow the foreign policy of HIROTA, his predecessor
12 in office.²²

13 THE PRESIDENT: We will recess now until half-
14 past one.

15 (Whereupon, at 1200, a recess was
16 taken.)

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25 21. Exhibit 2366 (Tr. 18,176).
22. Exhibit 2507 (Tr. 20,967).

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Yamaoka.

MR. YAMAOKA: Continuing on page 24, paragraph

12:

The prosecution has contended that some of
the policies of the HIROTA Cabinet were of aggressive
nature. The discussion in succeeding sections will
demonstrate that such an allegation is utterly
groundless. After all, throughout Mr. HIROTA's entire
tenure as Foreign Minister in the SAITO and OKADA
Cabinets and as Premier (September 1933-February 1,
1937) Japan was consistently pursuing a peaceful
policy vis-a-vis all nations. The important fact to
note is that Japan was at peace during that entire
period. While the effort of Mr. HIROTA basically to
improve Sino-Japanese relations was not fully realized,
it was not for lack of trying. The Anti-Comintern
Pact which was concluded in 1936 had no tendency
toward aggression and this matter will be dealt with
in detail in a later section.

13. When a heated public argument took

1 place between the military and the Diet at the last
2 stage of the HIROTA Cabinet, the Premier did not
3 compromise with the military at the expense of the
4 Diet; consequently he allowed his Cabinet to collapse
5 in order to maintain principle. The First KONOYE
6 Cabinet was formed in June 1937 and Mr. HIROTA under
7 the circumstances previously stated again assumed
8 the office of Foreign Minister. It was about a month
9 after he assumed that office that the China Affair
10 began. This was the most tragic event for the Foreign
11 Minister and reduced to naught all his efforts throughout
12 the years to realize his long-cherished peaceful
13 policy in Sino-Japanese relations. Detailed accounts
14 will be given in a later section with respect to the
15 policy and actions which Mr. HIROTA took as Foreign
16 Minister in the First KONOYE Cabinet in an effort to
17 solve the China Affair. Even in the face of this
18 bloody ordeal he never gave up his constant endeavor
19 for peace. His zeal for peace remained unabated
20 even after he resigned his last office as Foreign
21 Minister in May 1938. He was indeed the last man,
22 even as a private citizen, to oppose the conclusion
23 of the Tri-Partite Pact.
24

25 In short, Mr. HIROTA is a man of pacific
thought and action, a champion for conciliatory

1 diplomacy, and throughout his public service he devoted
2 all his amazing energy and talents to the realization
3 of that kind of diplomacy. The following sections
4 will deal with the minutiae of the evidence in more
5 concrete form.

6 SECTION 2

7 THE SOVIET POLICY OF MR. HIROTA

8 14. By reason of his service as Ambassador
9 to Moscow and other diplomatic experience in dealing
10 with Soviet problems, Mr. HIROTA emerged as one of
11 the few Japanese diplomats and statesmen who "knew
12 Russia". While he was in Moscow the Soviet Union
13 was just completing the first of its gigantic "Five
14 Year Plans" to formidably strengthen the economy and
15 power of that nation. The Japanese as well as other
16 nations in the world began to wonder whether that
17 increase of power was intended for peaceful purposes
18 or offense. When it became clear during the successive
19 "Five Year Plans" that the bulk of Soviet energy was
20 going into armaments and fortifications and that the
21 major emphasis was directed toward Eastern Siberia
22 and Vladivostok, the Japanese entertained a real
23 suspicion and fear about the real motives of the
24 Soviet Union. Mr. HIROTA knew better than perhaps
25 any other Japanese the potential power and predilections

1 of that nation. He believed that the maintenance of
2 friendly relations with the Soviet Union was of
3 paramount importance even from the standpoint of
4 Japanese security alone. His friendly and peaceful
5 policy toward the northern neighbor constituted a
6 major part of his whole program for world peace which
7 he pursued from start to finish during his entire
8 public service. The fact that Mr. HIROTA, as Japanese
9 Ambassador to Moscow, endeavored to promote mutual
10 understanding between Japan and the Soviet Union is
11 especially mentioned in the statement of the People's
12 Commissar for Foreign Affairs, Maxim Litvinov²³.

13 15. The prosecution has failed to produce a
14 single line of evidence which even hints that Mr.
15 HIROTA at any time during his long public service
16 said or did anything which has any possible relation
17 to the Counts in the Indictment dealing with the
18 Soviet Union. They did produce a part of the corres-
19 pondence of KASAHARA, Military Attache, written about
20 1931, in an apparent attempt to show that Mr. HIROTA
21 entertained some aggressive ideas toward the Soviet
22 Union²⁴; but that correspondence shows nothing of the
23 kind. That correspondence was not written or authorized
24 by HIROTA: it is a fragmentary document, partly illegible
25

23. Ex. 3252 (T. 29,616).

24. Ex. 692 (T. 7,447), Ex. 693 (T. 7,447).

written some time after the alleged remarks were made.

1 The KASAHARA correspondence was of course wholly
2 unknown to Mr. HIROTA who heard of it for the first
3 time during the course of these proceedings. Moreover,
4 KASAHARA has testified that the foregoing correspondence
5 might contain his own interpretation of what Mr.
6

7 HIROTA meant; he testified "I should think that some
8 of my private views also entered into this document...

9 I cannot say positively whether I had expressed the
10 Ambassador's thoughts truthfully and fully", and

11 further that the purport of the correspondence was
12 different from the opinion about Soviet relations

13 which Mr. HIROTA usually expressed²⁵. Therefore, it

14 is clear that Mr. HIROTA has no responsibility for

15 what KASAHARA wrote to military authorities in Tokyo

16 and that the whole matter is so dubious and unreliable

17 that it does not even amount to a straw in the wind

18 for the prosecution. Moreover, it is abundantly

19 demonstrated by all the evidence in the case that the

20 attitude and actions which HIROTA took or intended

21 to take toward the Soviet Union were uniformly in

22 the direction of friendship, understanding and certainly

23 peace at almost any dignified price.
24

25 16. When Ambassador YOSHIZAWA stopped at

25. T. 7,464 et seq.; T. 23,262 et seq.

1 Moscow during December 1931 on his way home, Litvinov²⁶
2 suggested the idea of a non-aggression pact with Japan ;
3 HIROTA, who was present during the conversation, was
4 personally in favor of making such an agreement; he
5 candidly expressed his opinion to that effect at a
6 press interview immediately upon his return to Japan
7 after having been relieved as Ambassador to the
8 Soviet Union²⁷. The Japanese Government replied to
9 the Soviet proposal during the time Mr. HIROTA was
10 in retirement; the Japanese reply did not reject
11 outright the idea of a non-aggression pact but pointed
12 out that the two Governments ought to apply themselves
13 for the time being to the settlement of outstanding
14 questions and thereby improve public opinion for
15 the reception of such an agreement. Furthermore, the
16 Tribunal will find it significant that at no time while
17 Mr. HIROTA occupied the Foreign Ministership or
18 Premiership did the Soviet Union renew a proposal for
19 a non-aggression pact.

20 Of course, Mr. HIROTA has no responsibility
21 for the views entertained by Foreign Minister UCHIDA
22 with respect to the Soviet proposal. Lastly, it is
23 difficult to imagine what place this sort of evidence
24

25 26. Ex. 744 (T. 7,714).
27. Ex. 3232 (T. 29,380).

has with respect to the issues involved in this case.

1 Certainly the failure for one reason or another to
2 negotiate a treaty could not possibly be the basis
3 for a violation of international law and it has been
4 demonstrated time and again that so-called non-aggression
5 pacts are virtually useless in insuring the maintenance
6 of peace. The agreements between the Baltic States
7 and Germany and the Soviet Union are glaring examples
8 of recent date.

9
10 17. When Mr. HIROTA was first appointed
11 Foreign Minister in September 1933 he immediately
12 sought the solution of all outstanding questions with
13 the Soviet Union by diplomacy; among other things
14 he said "Proper adjustment of the tri-partite relation-
15 ship between Japan, Manchoukuo and the Soviet Union
16 was of paramount importance for the tranquility of
17 East Asia"; and this principle was also announced
18 in the Foreign Minister's speech before the Diet in
19 January 1934²⁸. The whole evidence in the case shows
20 that HIROTA during all his occupancy of high office
21 extended himself to meet as far as possible the Soviet
22 point of view with respect to all questions between
23 the two countries and that he was entirely successful
24 in that endeavor.

25 28. Ex. 3237 (T. 29,451).

18. The Soviet section of the prosecution
1 has injected the sale of the Chinese Eastern Railway
2 into this case. The Tribunal excluded much of the
3 evidence offered by the defense with respect to the
4 circumstances attending the negotiations and actual
5 sale of the Railway to Manchukuo. At the time this
6 evidence was cut short the President of the Tribunal
7 remarked in substance that the Tribunal would need
8 an allegation in the Indictment with respect to this
9 matter in order to deal with it; as there is no
10 allegation anywhere in the Indictment about this
11 transaction, there is nothing before the Tribunal to
12 decide. However, not being apprised as to what position
13 the Tribunal will ultimately take, the circumstances
14 attending the negotiations and sale of the Railway
15 will be discussed. In the first place the Chinese
16 Eastern Railway is linked to the South Manchurian
17 Railway; these two systems linked with the Trans-
18 Siberian Railroad and formed the sole land connection
19 by rail between the East and Europe. It is a matter
20 of history that the Chinese Eastern Railway was built
21 during Czarist days and as frankly stated by the
22 Soviet delegate at the negotiations for the sale, it
23 had been used by Czarist Russia as an instrument of
24 Imperialism; it is also a matter of history that from

1 the time it was first built up until its sale in
2 1935 it had been continuously the source of friction
3 first between China and Russia, between China and
4 the Soviet Union, and still later between the Soviet
5 Union and Manchukuo. There is not a particle of
6 evidence in the case to show that the Japanese Govern-
7 ment ever had anything to do with the frequent
8 assaults and disputes which took place in connection
9 with the operation and finances of the Chinese
10 Eastern Railway. It was also clear as day in 1933
11 that there could never be any real peace, stability
12 or tranquility in East Asia while those disputes
13 continued or even posed a potential source of friction.
14 Now we will examine the fantastic assertion of the
15 Russian section of the prosecution that it was "forced"
16 to sell the Chinese Eastern Railway to Manchukuo.
17 Laying aside the fact that it would be difficult to
18 find any man of ordinary common sense who was credulous
19 enough to believe that the Soviet Union was moved by
20 force or coercion to sell, the uncontradicted evidence
21 in the case shows that the proposal for the sale
22 originated with the Soviet side in May 1933, when
23 Foreign Commissar Maxim Litvinov approached the
24 Japanese Ambassador Tamekichi OHTA, the successor
25 of Ambassador HIROTA in Moscow, with the proposition

for the sale of the Railway to either Manchukuo or
1 Japan. Here it must be remembered that the Chinese
2 Eastern Railway had been losing money in its operations
3 for a number of years and for that reason the Soviet
4 side had a powerful economic incentive to dispose
5 of the Railway aside from its professed purpose to
6 contribute to the peace of the Far East²⁹. The Japanese
7 Government decided it would not buy the Railway; when
8 Manchukuo indicated it would buy the Railway, Japan
9 offered its good offices by way of mediation alone to
10 facilitate the negotiations. The Soviet Union sent
11 a large delegation to Tokyo in June 1933 in connection
12 with the sale. At that time Mr. HIROTA was in retire-
13 ment and did not become Foreign Minister for the first
14 time until September 14, 1933. At the opening session
15 between the Soviet and Manchoukuoan delegates, the
16 Soviet side submitted an elaborate proposal dealing
17 with terms, conditions and price³⁰; the negotiations
18 dragged on for nearly a year without realizing any
19 appreciable progress and the negotiations actually
20 broke down because of a deadlock over the purchase
21 price and allowances to be made to Soviet employees.
22 Foreign Minister HIROTA entered the negotiations as
23

24 29. T. 36,129.

25 30. Ex. 3235 (T. 29,435), Ex. 3651 (T. 35,966).

1 a mediator with the express consent of the Soviet
2 and Manchoukuo delegations and his sole interest in
3 acting as mediator was to try to reconcile the widely
4 differing points of view with respect to the actual
5 value of the Railway. There is not a scintilla of
6 evidence in the case that while acting as mediator
7 he ever used duress or even uttered a harsh word
8 about the Soviet contentions. All this time the
9 Soviet side was exhibiting great eagerness to
10 conclude the sale. After many discussions, largely
11 devoted to mere haggling over price, an agreement
12 was reached late in 1934; in March 1935 the formal
13 agreement for the transfer of the Railway to Manchukuo
14 was concluded; and this came after nearly two years
15 of negotiations³¹. The mere fact that the final price
16 was lower than the Soviet offering price does not
17 prove that they were compelled to sell the Railway at
18 an unduly low price. Exhibit 3651 contains nothing
19 in support of such a ridiculous contention. Although
20 Japan did not purchase the Railway, the Soviet side
21 was suspicious about the solvency of Manchukuo and
22 demanded a guarantee of the purchase price from Japan
23 which was given as Japan's contribution to the stability
24 and peace of the Far East. Needless to say, Manchukuo
25

~~31. Affidavit of KAMEYAMA, Ex. 3234 (T. 29,426).~~

1 paid the full purchase price and the guarantee cost
2 Japan nothing. Consider also that at the first formal
3 conference held on June 26, 1933 the chief Russian
4 delegate expressed thanks to the Japanese Government
5 for serving as a mediator and that he desired the
6 negotiation to come to a successful conclusion
7 through the "positive and kind assistance" of the
8 Japanese Government; he also told the Japanese that
9 he entered the negotiation for the transfer of the
10 Railway "having due regard for the fact that recently
11 the said Railway might possibly become and actually
12 has become the source of dispute among the U.S.S.R.,
13 Japan and Manchukuo"³². The point expressed by the
14 Russian delegate heretofore quoted was mentioned by
15 Mr. HIROTA in a speech before the Diet in January 1935,
16 when he said, "If the transfer serves to eliminate
17 the source of such disputes as have occurred hitherto
18 so frequently along that Railway and to strengthen
19 the friendship between Japan, Manchukuo and the Soviet
20 Union, the prime objective of the present negotiations
21 will have been attained."³³ Abundant evidence that
22 the Soviet Union was entirely satisfied with the result
23 of their bargain is demonstrated by the telegram Foreign
24
25

32. Ex. 3235, T. 29,435.

33. Ex. 3247, T. 29,591.

1 Commissar Maxim Litvinov sent to Mr. HIROTA immediately
2 upon the conclusion of the sale; that telegram was
3 unprecedentedly warm and congratulatory and Mr.
4 HIROTA replied in the same sentiment and vein ³⁴.

5 Further evidence of Soviet satisfaction appears in the
6 Litvinov statement to the Japanese press in Moscow where
7 he said that the Japanese and Manchukuo sides had come
8 to "meet" the Soviet concessions; and on that occasion
9 he praised highly Mr. HIROTA for his superb efforts as
10 a mediator. Consequently, it must appear to the
11 Tribunal beyond a peradventure of doubt that the
12 insistence of the Soviet section of the prosecution in
13 rehashing all the details and circumstances connected
14 with the sale was a sheer waste of time. What they
15 proved and the defense added to their picture in order
16 to complete the story demonstrates that the Soviet
17 contention is utterly groundless. On the other hand
18 this evidence backfired and really proved that Mr. HIROTA
19 and the Japanese Government of his days were promoting
20 the peace of the Far East and at the same time thought
21 that they were bettering relations with the Soviet Union.
22
23
24
25

1 19. During the entire time Mr. HIROTA
2 occupied high office there were no major border clashes
3 along the Soviet Manchukuo borders. The Lake Khasan
4 Incident broke out fully two months after Mr. HIROTA
5 had resigned from his last post as Foreign Minister in
6 the First KONOYE Cabinet. It is evident that he had
7 nothing to do with the Incident.³⁵ Mr. HIROTA, how-
8 ever, was not unmindful of the danger inherent in
9 potential border strife throughout the entire period of
10 his occupancy of high office. "The foreign policy of
11 the Japanese Empire,"³⁶ which was decided during
12 August, 1936, while Mr. HIROTA was Premier, sought the
13 pacific settlement of pending questions with the U.S.S.R.
14 the creation of border commissions, and the establish-
15 ment of demilitarized zones in order to take all pre-
16 cautions against friction with the Soviet Union. The
17 same document also made reference to the hope of con-
18 cluding a non-aggression pact. Foreign Minister ARITA
19 also reported to the Diet in January, 1937, that he had
20 made a proposal for border delimitations to the Soviet
21 Union.³⁷ HIROTA reported to the Diet on July 27, 1937,
22 that he had requested the Soviet Union to co-operate for
23 the prevention of border disturbances.³⁸ Thus it is
24
25

(35. Affidavit of General UGAKI, Ex. 2715, T. 23,868.

36. Ex. 704, T. 7,523, 8,178.

37. Ex. 2370, T. 18,387.

38. Ex. 2497, T. 20,816.)

shown by uncontradicted evidence that Mr. HIROTA exerted every effort throughout his entire tenure of offices to promote the tranquility of northern borders and that he sought the pacific settlement of all outstanding questions.

20. HIROTA, like many other statesmen throughout the world, was opposed to Communism for the simple reason that it threatened the Japanese system and form of government. In November, 1936, at a time when many governments in the world had been passing all sort of measures for the control of Communism and the expulsion of Communists, he approved the conclusion of the Anti-Comintern Pact which will be dealt with more fully later. It was aimed solely at checking the spread of an ideology. HIROTA also wished that China would fall in line with the Anti-Comintern policy; and even today when the Nationalist Government of China is fighting a life and death struggle with the Red movement with its back literally against the wall, it is not difficult to imagine that some quarters in the Nationalist Government wish they had grasped HIROTA's open hand extended from 1934, and on, to co-operate in checking the spread of Communism. This idea for Chinese co-operation to prevent the spread of Communism constituted a part of HIROTA's so-called "Three Principles" which Japan proposed to the Chinese Government. It was also offered

again in the "political conditions" for the solution of
1 the China Incident, but these political conditions were
2 proposals for a permanent rapprochement between Japan
3 and China and had nothing to do with the standing offer
4 of the Japanese Government for a truce and cessation of
5 hostilities up to the time at least when Japan withdrew
6 recognition from the Chiang Kai-shek regime. Nothing in
7 connection with the Anti-Comintern Pact and the agree-
8 ment attached to it, or the proposal to the Chinese
9 Government to co-operate with respect to the suppression
10 of Communism, suggests the idea of a Japanese attack
11 upon the Soviet Union. Japan was well within its rights
12 in adopting an anti-Communism policy. Furthermore, the
13 Anti-Comintern Pact was not a "first step" looking for-
14 ward to a military alliance with Germany or Italy and
15 HIROTA had absolutely nothing whatever to do with the
16 negotiations three or more years later for the "strengthen-
17 ing" of the Anti-Comintern Pact and the later Tri-
18 partite Pact of 1940. Therefore there has been a total
19 failure on the part of the prosecution to offer a
20 scintilla of evidence in support of Counts 17, 25, 35
21 and 52.
22

23 SECTION 3.

24 HIROTA's POLICY TOWARD CHINA

25 21. At the time HIROTA succeeded Count UCHIDA

1 as Foreign Minister on September 14, 1933, the relations
2 between Japan and China were anything but bright and
3 could be considered gloomy, oppressive and fraught with
4 all sort of danger; and Sino-Japanese diplomatic re-
5 lations were literally half severed. The attention of
6 the Tribunal is respectfully invited to the Lytton
7 Report which reveals in detail the backdrop of the actual
8 chaotic conditions in China. He was faced with a
9 Herculean task in his announced intention to effect a
10 radical and thorough-going improvement in Sino-Japanese
11 relations and he entered upon that great task with the
12 idea of appeasing the Chinese as far as circumstances
13 would permit and giving ground to the limit. Mr.
14 HIROTA in September, 1933, was thoroughly convinced
15 that relations between Japan and China could not continue
16 in the uncertain status which had prevailed for such a
17 long time. His resolution to effect a radical rapproche-
18 ment was repeatedly expressed in his addresses to the
19 Diet³⁹ and immediately upon assuming office he issued
20 repeated instructions to Ambassador ARIYOSHI at Nanking
21 to negotiate with the Chinese for the betterment of
22 Sino-Japanese relations in conformity with his principles
23 expressed to the Diet and elsewhere.
24

25 22. During normal times a large part of the
(39. Ex. 3237, T. 29,451; Ex. 3238, T. 29,462.)

1 foreign trade of Japan consisted of exports to China;
2 whole districts in Japan, such as sections of the Osaka
3 District, were geared to the production of goods to suit
4 the Chinese taste and pocketbook. Following the Man-
5 churian Incident trade between China and Japan reached
6 a record low and that condition persisted until the days
7 HIROTA became Foreign Minister in September, 1933. Be-
8 cause of the conciliatory policy of Mr. HIROTA, made
9 known to the Chinese through the Ambassador and other
10 channels, the attitude of the Nationalist Government of
11 China toward Japan began to take a favorable turn from
12 about the beginning of 1934 and a number of pending
13 questions were settled.⁴⁰ For example, such questions
14 as restriction of postal communication between Manchukuo
15 and China, which so vitally affected commerce and the
16 well-being of the people in both countries, was settled.
17 The series of conversations held in 1934 between Amba-
18 sador ARIYOSHI and Mr. Wang Ching-wei, President of the
19 Executive Yuan and Foreign Minister of the Nationalist
20 Government, who was then the righthand man of Chiang Kai-
21 shek and a long-time disciple of Dr. Sun Yat-Sen, the
22 father of the Chinese Republic, succeeded in paving the
23 way for a radical improvement of Sino-Japanese relations.⁴¹
24 The HIROTA "Three Principles" which later became the
25

(40. Ex. 3241, par. 4, T. 29481, 29484.

41. Ex. 3243, T. 29569.)

1 foundation of the Japanese foreign policy toward China
2 originated in the understanding reached during those
3 conversations; consequently the "Three Principles" are
4 not a one-sided Japanese invention but represented the
5 opinions of both sides after discussion and consideration.
6 During the conversations between ARIYOSHI and Wang an
7 agreement had been reached that certain principles should
8 guide the relations between Japan and China, that the
9 relations between the two countries should be adjusted
10 on the permanent foundation of co-existence and co-pros-
11 perity and that the questions arising out of Manchukuo
12 problems which were, so to speak, "like a reef in the
13 sea between the two countries," should be left untouched
14 for the time being. Thus, those conversations went a
15 long way at the time in promoting better relations.

16 23. It must be remembered, however, that at
17 the time the conversations between ARIYOSHI and Wang
18 were making progress there existed in Japan certain
19 elements in the military who were opposed to any policy
20 of Sino-Japanese rapprochement; and they frowned upon
21 any co-operative attitude toward China on the ground that
22 the Nationalist Government of China was anti-Japanese.
23 Mr. HIROTA exerted his utmost effort to rectify such
24 misunderstanding at home. His address to the Diet on
25 January 22, 1935, as well as his other statements before

1 committees of the Diet, demonstrate his attitude and
2 endeavors beyond all reasonable doubt.^{42.} In one of
3 those statements he said he did not have the slightest
4 suspicion with respect to the attitude of Chiang Kai-
5 shek; in another that Japan would not claim in China
6 any privilege which was not granted to third powers;
7 and elsewhere it appears that Mr. HIROTA was deeply
8 sympathetic with the long efforts of Chiang Kai-shek to
9 unify all of China. Chiang Kai-shek and Wang took
10 notice of Mr. HIROTA's statements and efforts and ex-
11 pressed their intention to co-operate in the views out-
12 lined by HIROTA. At that time the Chinese also showed
13 their good faith by taking measures to control the
14 anti-Japanese movement which almost immediately reflected
15 itself in improved trade between the two countries. The
16 legations in both countries were raised to the status of
17 embassies in May, 1935, at the initiative of HIROTA.⁴³

19 24. In view of the internal circumstances and
20 structure of the Japanese Government, the policy formu-
21 lated by the civil side of the Japanese Government toward
22 China could not be carried into execution without regard
23 to the views entertained by the Supreme Command which,
24 as has been so often stated during the course of this

25 (42. Ex. 3247, T. 29591; Ex. 3249, T. 29608;
Ex. 3250, T. 29611.

43. Ex. 3241, par. 7, T. 29481-87.)

1 trial, was autonomous. Granting that it could have been
2 decided without consulting the Army, it would have been
3 quite impossible to carry it into practice. Therefore,
4 HIROTA had his staff negotiate with the Army in order to
5 work out a workable and practical policy toward China
6 which would meet the military point of view to the extent
7 it did not destroy the principles which had been discussed
8 between the Foreign Ministry and the Chinese. Thus, in
9 July, 1935, a tentative plan⁴⁴ was drawn and officially
10 submitted to the conference of the Foreign, War, and
11 Navy Ministries on October 4, 1935. Some modifications
12 were brought in at the suggestion of the military and
13 the plan was adopted as an understanding among the
14 stated three Ministries; and the plan obtained the
15 approval of the Premier and the Finance Minister. This
16 is the so-called HIROTA "Three Principles." The wording
17 of the final text⁴⁵ is somewhat stronger in effect than
18 that of the Foreign Office plan,⁴⁶ but the basic
19 principles of the Foreign Office plan were preserved in
20 the final draft. It is important to emphasize here that
21 Generalissimo Chiang of the Chinese Nationalist Govern-
22 ment, in a public statement, expressed his unconditional
23 agreement to the "Three Principles" and declared his
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25 (44. Ex. 3253, T. 29621.

45. Ex. 3254, T. 29625.

46. Ex. 3253, T. 29621.)

1 desire to have them executed promptly.⁴⁷ In order to
2 cement this progress in the right direction, HIROTA
3 outlined the principles in a formal address to the Diet
4 in January, 1936.⁴⁸ As stated above, the so-called
5 HIROTA "Three Principles," which became the foundation
6 of HIROTA's policy toward China, were formulated with
7 the full understanding and consideration of the view-
8 point of the Chinese; the Chinese Government expressed
9 its complete agreement with the principles; and they
10 were published to the world. Certainly all these
11 endeavors show the earnestness and sincerity of HIROTA
12 in attempting to adjust Sino-Japanese relations in a
13 most reasonable, conciliatory, and peaceful way.
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(47. Ex. 3257, T. 29635.
48. Ex. 2434, T. 19728.)

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25. In the meantime, Mr. AMAU, then the
so-called spokesman of the Foreign Office, in
speaking extemporaneously to newspaper men, made an
unofficial statement which was reported in a dis-
torted and exaggerated way by newspapers all over
the world. The circumstances attending the release
of that statement are clearly set forth in the evi-
dence.⁴⁹ Other exhibits in evidence make it abundantly
clear that said unofficial statement did not in any
sense reflect the true policy of the Foreign Office
and the Government.⁵⁰ The evidence is uncontra-
dicted that Mr. HIROTA reprimanded AMAU for that
indiscretion. The documents connected with this
episode⁵¹ also show that HIROTA was faithful to the
provisions of the Nine-Power Treaty and that he did
not have the slightest intention to infringe upon
the rights of other powers in China under that Treaty.
Moreover, the evidence stands uncontradicted that
Mr. HIROTA assured Ambassador Grew and Ambassador
Lindley that the AMAU statement was wholly unauthor-
ized and unofficial and that Japan respected both the

49. Ex. 3241, par. 5 (Tr. 29481-85).
50. Ex. 936 (Tr. 9393; Ex. 3244 (Tr. 29578);
Ex. 3245 (Tr. 29585).
51. Ex. 936 (Tr. 9393); Ex. 3246 (Tr. 29587);
Ex. 3250 (Tr. 29611).

1 letter and the spirit of the Nine-Power Treaty
2 notwithstanding the fact that Japan did not enjoy
3 equality of opportunity in China by reason of the
4 Japanese boycott. And HIROTA took that position
5 notwithstanding a substantial body of opinion in
6 Japan regarded the Nine-Power Treaty as a dead
7 letter since the Chinese announced unilaterally from
8 at least 1929 the abolition of all extraterritorial
9 rights of all powers and said body of opinion other-
10 wise regarded that Treaty as being unworkable and
11 impractical.

12 26. Despite the long continued efforts of
13 HIROTA to adjust Sino-Japanese relations, the situa-
14 tion did not progress as he desired. Especially in
15 North China, skirmishes sporadically took place
16 between Japanese and Chinese troops beginning about
17 May or June of 1935 at several points in North China
18 and in Chahar. In November of 1935 the Chitung
19 regime was established and that situation brought
20 forth an echo in China in the form of renewed and
21 intensified anti-Japanese activity, which resulted
22 in the attempted assassination of Wang Ching-wei,
23 who was shot, and the assassination of Tang Yu-Jen,
24 the then Vice-Minister for Foreign Affairs and
25

1 trusted friend of Wang.⁵² Thus, HIROTA's efforts
2 toward rapprochement got a definite set-back.

3 With respect to the threatening situation
4 in North China, as was reported in telegrams to the
5 Foreign Ministry from the diplomatic authorities
6 stationed in China,⁵³ the responsible heads of the
7 Nationalist Government protested to the Japanese
8 Government; while at the same time they expressed
9 hearty approval of HIROTA's policy toward China.⁵⁴
10 Thus, the Foreign Minister, in order to realize the
11 rapprochement in Sino-Japanese relations, was compelled
12 to direct his attention toward the pacification of
13 the situation in North China, including admonitions
14 as far as lay within the power of the Foreign
15 Ministry about certain activities of the military
16 in that area;⁵⁵ but to his deep regret the task was
17 not always within his power.
18

19 In this connection the prosecution alludes
20 in its summation at FF-49 to a conversation alleged
21 to have taken place between HIROTA and Baron HARADA
22 on the subject of the concentration of Japanese
23 troops in the vicinity of Shanhaikuan. The excerpt

24 52. Ex. 3241, par. 8, 12, 13 (Tr. 29481, 29488,
25 29489, 29492).

53. For example, Ex. 3256 (Tr. 29632).

54. Ex. 3257 (Tr. 29635).

55. Ex. 3241 (Tr. 29489).

1 from the HARADA-SAIONJI Memoirs, exhibit 3779-A,⁵⁶
2 introduced by the prosecution, discloses HIROTA's
3 anxiety about the arbitrary movement of Japanese
4 troops. This exhibit shows that he was, in fact,
5 assured by the War Minister that troops would not be
6 permitted to move southward without an Imperial
7 Command and HIROTA certainly was confident that the
8 Emperor would not grant such permission. This matter
9 was kept secret because its revelation would have
10 provoked trouble from the Chinese side as well as
11 retaliatory measures from the Japanese militarists.

12 Here it is necessary to recall the stormy
13 situation in Japan on the eve of the "February 26"
14 Incident. As the Supreme Command occupied a unique
15 position and held both de jure and de facto authority
16 there were some obvious limits to the authority and
17 power of the Foreign Minister to effectively inter-
18 fere and, consequently, the Foreign Minister was in
19 an extremely delicate and unenviable position in his
20 efforts to maintain the peace in North China in late
21 1935. His practical exhibition of good sense during
22 those critical days certainly avoided a tragic colli-
23 sion at that time. Of course, the Army had its own
24 side and point of view about what really transpired
25 56. Tr. 37789.

1 in North China late in 1935 and under the Japanese
2 system of government they were entitled to maintain
3 their point of view. What is of emphatic importance
4 here is that the Foreign Minister strove very hard
5 to maintain the peace and at the same time sought a
6 solution of the obstacles which stood in the path
7 of stable and good Sino-Japanese relations. There
8 is not a single line of testimony or inference or even
9 suspicion that HIROTA was engaged in a common plan
10 and conspiracy in conjunction with the military to
11 accomplish any of the objects so recklessly alleged
12 in the Indictment.

13 During 1936 and up until the outbreak of
14 the Marco Polo Bridge Incident on 7 July 1937, the
15 Japanese Ambassador continued talks, whenever the
16 occasional opportunity afforded, to work out a
17 fundamental rapprochement in Sino-Japanese relations;
18 but all this came to naught which was in large part
19 due to the internal political situation in China
20 which bordered on chaos, if not chaos itself. In
21 1936 Chiang Kai-shek was kidnapped and this in turn
22 gave rise to the celebrated Sian Incident. Various
23 interpretations have been put on the outcome of the
24 talks between Chiang Kai-shek and Chang Hsueh-Liang
25 but the fact remains that shortly after the release

1 of Chiang Kai-shek the Communist anti-Japanism front
2 was strengthened; and throughout China thereafter
3 the tom-toms were beating once more along the line
4 of anti-Japanism and boycott. Also there were numer-
5 ous instances of assault against Japanese nationals
6 and danger to Japanese property. Here it must be
7 recalled that in 1935 the Communists of China had
8 already declared "war" against Japan and that the
9 entrenchment of Communism in China, going back as it
10 did to the days of Chiang Kai-shek, who first wel-
11 comed its support in 1924 and then temporarily
12 ousted it by armed force in 1927, was viewed from
13 the very beginning as a matter of serious menace
14 and proportions. Communism in the Far East was and
15 still is a matter of much grave concern to the
16 stability and welfare of the Far East.

17 It cannot be too emphatically emphasized
18 that from the time Mr. HIROTA assumed Foreign
19 Ministership in September 1933 until he resigned as
20 Prime Minister in February 1937, and even thereafter
21 up until the outbreak of the Marco Polo Bridge
22 Incident, there had not been the slightest effort
23 on the part of the Foreign Minister to put the least
24 degree of pressure upon China to "recognize" Man-
25 churia. On the other hand the Foreign Ministry had

1 recognized the internal political situation within
2 China, the dilemma in which the Chinese were placed
3 as a result of the Mukden Incident and the rise of
4 Manchukuo as an independent government; and still
5 on the other hand the Chinese recognized that it was
6 virtually impossible for the Foreign Minister to
7 undo a "fait accompli" and in this situation both
8 sides were sensible enough to lay aside for the time
9 being the question of the recognition of Manchukuo
10 as though it was like a "reef in the sea." On the
11 contrary the Chinese during that period put up,
12 more or less, a frozen front and it was the Japanese
13 who went out of their way to cultivate them in
14 whichever way an opportunity might occur in order
15 to erase potentialities for future friction and to
16 effect a fundamental rapprochement in relations.
17 That HIROTA had a wise head as to future dangers and
18 need for a fundamental readjustment is abundantly
19 demonstrated by evidence wherein he anticipated that
20 upon the termination of the naval limitation agree-
21 ments the Western powers would suspect that Japan
22 intended to deal with China "in her own free way";
23 and in order to negate such a suspicion HIROTA
24 intended to negotiate a strong treaty with China
25 with respect to China's independence and integrity,

1 thereby powerfully demonstrating to the world the
2 true and peaceful intentions of Japan toward China.⁵⁷
3 Even though the many overtures looking toward funda-
4 mental peace on the part of Japan did not materialize
5 satisfactorily up until the Marco Polo Bridge Inci-
6 dent, Mr. HIROTA never gave up his endeavors in
7 this connection. During this entire period Japan
8 really asked for only three things: (1) Chinese
9 friendship and cooperation in personal relations
10 and trade, with respect to which no one can find
11 any possible fault; (2) cooperation against the
12 Communist menace, concerning which a large portion
13 of the world can find no fault, then or now; and
14 (3) suppression of anti-Japanism and anti-Japanese
15 teaching in the schools, the elimination of which
16 was obvious to the whole world if there were to be
17 any fundamental instinct and cooperation toward
18 peaceful relations among people. So much for the
19 effort on the part of Mr. HIROTA to adjust Sino-
20 Japanese relations up to the Marco Polo Bridge
21 Incident.

23 SECTION 4. NAVAL LIMITATION.

24 27. Japan served notice of her intention
25 to terminate the Washington Naval Treaty in December
57. Ex. 3873-A (Tr. 38651-2).

1 1934 to take effect in December 1936 in accordance
2 with the express stipulations of that Treaty. She
3 withdrew from the London Naval Conference in January
4 1936. The prosecution has seized upon these lawful
5 transactions as indicia of an intention to prepare
6 for aggressive warfare. These two measures occurred
7 during the tenure of Mr. HIROTA as Foreign Minister;
8 but in so far as Mr. HIROTA is concerned, suspicion
9 of the prosecution as to the purposes behind Japan's
10 action on those occasions falls flat. In the first
11 place Japanese public opinion was strongly opposed
12 from the first to the 5-5-3 ratio; this in turn was
13 mixed up with the idea that America and Britain were
14 bent upon making the Japanese content with a sense
15 of "inferiority"; and this produced some psychologi-
16 cal reactions in Japan, especially in the eyes of
17 the career officers in the Japanese Navy. Here the
18 Tribunal must also realize that Japan is an island
19 nation; all its principal cities are located along
20 the seacoast; the Soviet Union maintained a sizeable
21 naval force at all times at Vladivostok and that it
22 was possible entirely to surround the islands of Japan
23 with naval power and destroy all its principal cities
24 by shelling from the seas, not to say anything about
25 the rapid growth of air power. What Japan required

1 in the way of naval armament was a matter primarily
2 within the competence of the Supreme Command of the
3 Navy. It did not lay within the province of the
4 Foreign Minister to overrule the Supreme Command
5 of the Navy which was answerable only to His
6 Majesty.⁵⁸ In 1934 the Navy had already determined
7 that it would terminate the Treaty of 1930; the
8 Tribunal will realize that this position of the Navy
9 was firmly entrenched shortly after Mr. HIROTA first
10 came to the Foreign Ministry in September 1933. The
11 fact that HIROTA was personally opposed to the view-
12 point of the Navy and was in favor of compromise
13 and concessions in tonnage in favor of America and
14 Britain and wanted to resign even in 1934 if he were
15 required to carry out "strait-laced" diplomacy
16 appears from the HARADA-SAIONJI diary with respect
17 to which the prosecution seems to place its main
18 reliance for the real inside story of what transpired
19 in Japan.⁵⁹

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21 28. The Japanese delegation to the pre-
22 liminary disarmament conference held in London in
23 October 1934 advanced the idea of a "common maximum
24 upper limitation" in lieu of the "ratio" and made

25 58. Tr. 35514.

59. Ex. 3870-A (Tr. 38643), Ex. 3871 (Tr. 38646).

1 extended and sincere efforts to have that idea
2 accepted; and while those conversations were going
3 on the Japanese Government refrained from taking
4 any unilateral action to abrogate the Washington
5 Treaty so as to cause the least repercussion in
6 international relations. When these conversations
7 failed, the Japanese Government on 29 December 1934
8 served notice through the Ambassador to Washington
9 of its intention to terminate the Treaty in accordance
10 with its provisions.⁶⁰ HIROTA declared in his
11 address before the Diet on 22 January 1935 that al-
12 though Japan had given notice of termination, the
13 Government had no desire to proceed with an expansion
14 of armament and, on the contrary, he earnestly wished
15 that, at the coming negotiations among the powers, a
16 new, fair and just agreement might be reached based
17 on the principle of drastic disarmament and the prin-
18 ciple of non-menace and non-aggression.⁶¹

19
20 29. The Japanese delegates to the naval
21 disarmament conference held in London at the end of
22 1935 made patient and extended efforts to reach a new
23 agreement, keeping in mind the intention of the
24 Japanese Government and the Foreign Minister with

25 60. Affidavit of ENOMOTO, Ex. 3011 (Tr. 26780).

61. Ex. 3247 (Tr. 29591).

1 respect to "allaying the state of uneasiness then
2 existing throughout the world," and the "lightening
3 of the people's burden," which of course had reference
4 to the terrific tax load carried by the leading
5 nations of the world in supporting armaments which
6 they believed, according to their own way of thinking,
7 constituted the essential of self-defense. The
8 Japanese proposal for drastic disarmament, such as
9 the abolition of aircraft carriers, capital ships,
10 etc., having failed to attract any enthusiasm from
11 Britain and America, the Japanese Government, in an
12 effort to save the situation, sent a new instruction
13 to the delegates urging them to renew their efforts
14 to reach an agreement and on that occasion stated,
15 "If even then Japan's thesis does not receive the
16 final approval of the other powers, withdrawal from
17 the conference may be unavoidable, but even in such
18 an eventuality, in order to avoid unfavorable effects
19 upon international relations, efforts should be made
20 to save the situation by having the five powers agree
21 to matters on which they can come to agreement, and
22 then to have the powers concerned make a joint
23 declaration not to engage in an armament race before
24 bringing the conference to a close." The delegates
25 continued their negotiations in a final effort to

1 reach an agreement, but everything failing, they
2 left the conference on 15 January 1936.⁶² On 21
3 January 1936, immediately after the withdrawal from
4 the conference, Mr. HIROTA declared in his address
5 before the Diet "Our Government respects, however,
6 the spirit of non-menace and non-aggression irre-
7 spective of the existence of a disarmament treaty,
8 and has no intention whatever of provoking armament
9 competition. Moreover, it is needless to say that
10 our Government will never falter in its intention
11 to cooperate with other powers for the cause of dis-
12 armament in order to establish world peace." The
13 same idea was expressed by Mr. HIROTA in an informal
14 talk on the same day following the withdrawal of the
15 Japanese delegates from the conference⁶³ and also on
16 other occasions.⁶⁴ The withdrawal from the confer-
17 ence was not the last word on the subject as far as
18 HIROTA was concerned. In his speech before the House
19 of Representatives on 4 March 1938, he declared his
20 hope that the chance would soon come to have a new
21 talk on disarmament among the powers.⁶⁵

23 62. Ex. 3011 (Tr. 26780).

24 63. Ex. 2226-A, introduced by the prosecution
(Tr. 15977).

25 64. Ex. 3872-A (Tr. 38649); Ex. 3873-A (Tr. 38651-2).

65. Ex. 3289 (Tr. 30002).

30. The deep-seated and long-standing feeling among the Navy and the Japanese people with respect to the ratio system can be readily gauged from the internal dissension caused by the 1930 agreement. The 1930 agreement was signed by the Japanese delegates, including a naval representative, but insofar as ratification back home was concerned, it ran a gauntlet of fire; that is to say, the Supreme Command of the Navy took the position that the delegates had infringed upon the competence of the High Command; and in that situation ratification was pushed through in strange circumstances. One aftermath was the assassination of Premier HAMAGUCHI, and this was said to have drawn in its train the "May 15" Incident and the "February 26" Incident. It was during this restless period, when the Japanese were literally suffering from "growing up" pains, that Mr. HIROTA, in his constant endeavor to promote peace and conciliation with all nations, was placed in the position of being between Scylla and the Charybdis. Even during those days HIROTA was the principal spokesman for the principle of non-menace and non-aggression among all nations and that the absence of a treaty did not imply an armament race. HIROTA as Foreign Minister and later as Premier, was powerless

1 to overrule the position taken by the Navy through-
2 out; all that he could do in those circumstances was
3 to see that the termination of the limitation treaty
4 caused the least foreign repercussion. Moreover, at
5 the time Japan announced its intention to abrogate
6 the treaties Admiral OKADA was the Premier and his
7 pacific political ideas are well known to the Tribunal
8 as well as the fact that the Chief Prosecutor re-
9 ferred to him as being a person in whom "the prosecu-
10 tion has great confidence."^{65a}

11 31. Likewise the Japanese refusal to grant
12 reciprocal exchange of information with respect to
13 construction after the lapse of the treaties re-
14 flected solely the position of the Navy and HIROTA,
15 in view of the fact that such refusal was not a
16 breach of any existing treaty obligation, was power-
17 less to do anything about that situation. The
18 prosecution in its summation at F-72 and FF-22 refers
19 to the so-called "consular espionage" as an aid to
20 Japan's naval attack and plans. The evidence to
21 support this is exhibit 1249⁶⁶ but this piece of
22 evidence concerns the activities at Honolulu in 1941
23 ar.¹ has no connection with HIROTA as he was then out
24 of office. In fact there is not the slightest bit
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65a. Tr. 29301.

66. Tr. 11184.

1 of evidence that during HIROTA's tenure of office
2 the Foreign Office participated in espionage in any
3 part of the Pacific or elsewhere.

4 32. The prosecution has pointed out that
5 the keels for the battleships "Yamato" and "Musahi"
6 were laid about 1937, to be completed about 1941 or
7 1942, were already under construction when HIROTA
8 was Foreign Minister in the First KONOYE Cabinet
9 (his last public office).⁶⁷ But there is nothing to
10 show that HIROTA or other civil members of the
11 Cabinet were informed of or had any knowledge of the
12 construction of vessels of such a type or size. All
13 the evidence in the case shows that naval construction
14 was carried on with the idea of secrecy and security.
15 Neither the Foreign Minister nor any Minister on the
16 civil side of the Government had any power to inter-
17 fere with the prerogative of the High Command with
18 respect to the details of naval construction and
19 within the scope of the budget they were all-powerful.
20 There is not a single line of evidence in the entire
21 case to show that HIROTA, during the occupancy of
22 his last high office in the First KONOYE Cabinet,
23 had the slightest knowledge with respect to the
24 67. Ex. 913 (Tr. 9240).
25

1 details of naval construction or any plan with
2 respect thereto. Altogether the evidence with
3 respect to actual construction during HIROTA's
4 entire tenure (September 1933 - May 1938) is puny
5 and affords no basis whatever for a judgment that
6 during that period Japan was engaged in building
7 excessive armaments for any such purpose as is
8 alleged in the Indictment.
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SECTION 5THE HIROTA CABINET AND MILITARY ACTIVITIES

33. The period during which Mr. HIROTA served as Foreign Minister in the SAITO and OKADA Cabinets and as Premier was characterized by the increasing disposition of certain elements within the military who most of the time were as hard to identify as a mosquito in the dark and whose activity was reflected in proneness to dip into politics and take independent action, to correct what they regarded as mal-administration of the government with respect to both internal affairs and foreign policy. HIROTA, working in such a charged atmosphere, never changed his consistent and conciliatory foreign policy and he sought to maintain public order to suppress extreme elements and to uphold pacifism against militant ideas expressed here and there. His numerous addresses before the Diet during this period furnish abundant proof that he made constant efforts despite adverse criticism and attacks to promote international peace and cooperation and to direct public opinion in the right direction. This consistent attitude of Mr. HIROTA throughout that long period is in direct conflict with the allegations of the indictment with respect to "the

1 organization of Japanese politics and public opinion
2 for war."⁶⁸

3 34. HIROTA was recommended by Prince SAIONJI,
4 the last "genro" and a noted liberal and pacifist
5 according to all the evidence in this case, immediate-
6 ly after the "February 26" Incident^{68a} to the post of
7 Premier. Prince SAIONJI recognized the sound and
8 steady character and personality of Mr. HIROTA and
9 selected him in those stormy days as the one man who
10 could bring order out of chaos and restore the nation
11 to an even keel. Of course it goes without saying
12 that HIROTA was selected in order to restore law and
13 order in Japan and not to lend the faintest encourage-
14 ment to those unruly factions within the army which
15 had promoted a reign of terror in the City of Tokyo
16 for several days. Here it ought to be recalled that
17 immediately upon the appointment of Mr. HIROTA as
18 Premier those responsible for the "February 26" Inci-
19 dent were subjected to military trials and were meted
20 out drastic punishment; and those who held high office
21 in the army, although they had nothing directly to do
22 with the uprising within the army, retired because of
23 responsibility for the lack of discipline. HIROTA,
24 upon acceptance of that tremendous responsibility,

68. Annex A, Sec. 6 of the Indictment.

68a. Ex. 176 (tr. 1831-32).

1 organized his cabinet with "thorough enforcement of
2 military discipline, putting the peoples' mind at
3 rest and the establishment of peaceful diplomacy" as
4 its avowed mission; and he maintained those principles
5 throughout the Premiership.⁶⁹ Moreover, another

6 evidence of the character of this Cabinet is the fact
7 that HIROTA included in it four prominent members of
8 the political parties in spite of army opposition,
9 and that all the members were civilians except the War
10 and Navy ministers.

11 35. In May 1936 the HIROTA Cabinet authorized
12 a revision of the ordinance governing the official
13 organization for the Ministries of War and Navy which
14 limited candidates for Ministers and Vice-Ministers
15 to generals and admirals on the active list. The idea
16 for the revision did not originate with HIROTA and when
17 the proposal was submitted to him he expressed puzzle-
18 ment as to the necessity for the revision in view of
19 the fact that it did not change the long-standing and
20 existing practice to appoint only those on the active
21 list. Of course, the idea behind this proposal was to
22 prevent top officers who had retired because of a sense
23 of responsibility arising out of the "February 26"
24

25 69. Affidavit of TSUGITA, Ex. 2366 (tr. 18,176)

1 Incident from again returning to the War Ministry.
2 The indictment and arguments advanced by the prose-
3 cution attempt to wholly distort the meaning and intent
4 of the revision and make it appear that the revision
5 "gave to the militarists the opportunity of gaining
6 control over the government." The witness TSUGITA,
7 the Director of the Bureau of Legislation at that time,
8 pointed out ⁷⁰ the reasons underlying the revision:
9 (1) the revision was made on the practical ground that
10 Ministers of War and Navy, who supervised military
11 personnel under orders from the High Command, should
12 likewise be personnel in active service; and (2) that
13 the long-standing preceding practice had been to
14 appoint only a general, lieutenant-general, admiral
15 or vice-admiral on the active list. Therefore, the
16 uncontradicted evidence in the case is that the revi-
17 sion simply legalized the existing practice. It created
18 no new system and there is not a jot of evidence in
19 the entire case to show that anyone connected with the
20 revision entertained any idea of making the path for
21 the growth of militarism in Japan easier. In view
22 of the circumstances under which the revision was made
23 it would be much more logical to draw the inference
24 of innocence. In the report of the Privy Council on
25 70. Ex. 2366 (tr. 18,176).

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said revision they followed the same reasons stated
1 above and stated in so many words that the purpose of
2 the legislation was the completion of military dis-
3 cipline. Despite the revision, it was not impossible
4 to appoint War and Navy Ministers and Vice-Ministers
5 from personnel on the reserve list; and all that was
6 required was an order transferring a person from the
7 reserve to the active list which could be done at any
8 time without regard to the length of retirement or age.
9 The failure of General UGAKI to organize a cabinet in
10 January 1937 had nothing to do with the revision. The
11 witness TSUGITA explained the circumstances involved
12 in the failure of General UGAKI to organize a cabinet
13 and it had nothing whatever to do with the revision.
14 72
15 Moreover, Premier HIROTA asked at the cabinet confer-
16 ence, "Will this reform not lead to a situation in
17 which those commanded to form the cabinet will find it
18 difficult to appoint future War and Navy Ministers?"
19 To this both the Army and Navy Ministers gave their
20 assurances: "There is no fear that such a situation will
21 arise." Consequently, on the whole evidence there is
22 not an iota of truth to the allegation of the prosecu-
23 tion that the revision gave the militarists a chance
24 to tighten their grip on politics.
25

71. Ex. 2367 (tr. 18,183).

72. Ex. 3258 (tr. 29,648).

36. The fact that HIROTA consistently re-
1 fused to side with or yield to extreme views at differ-
2 ent levels within the army is demonstrated beyond a
3 shadow of doubt by literally one hundred different
4 pieces of evidence in this case. The immediate reason
5 for the fall of the HIROTA Cabinet affords a graphic
6 illustration of HIROTA's refusal to side with army
7 attitudes and views. The reason for the collapse of
8 the cabinet had a direct connection with the effort of
9 War Minister TERAUCHI, who undoubtedly had some support
10 in the Supreme Command, to foist his views upon the
11 Premier at the expense of the House of Representatives.
12 In October 1936 the military advanced an opinion pub-
13 licly with respect to the reform of the parliamentary
14 system of Japan which in turn caused a sharp exchange
15 between the Diet, speaking principally through a prom-
16 inent member, Mr. HAMADA, and the War Minister; it came
17 to a head in January 1937 with the demand by the War
18 Minister for dissolution of the House of Representatives,
19 but HIROTA turned thumbs down on the demand out of
20 respect to the parliamentary system; whereupon the
21 War Minister tendered his resignation, and it appearing
22 that the army would continue its stiff attitude, the
23 cabinet resigned en masse.
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Had HIROTA been an
opportunistic or inclined toward views entertained by

1 some elements in the army, he might very well have
2 taken a different stand on that occasion. This episode
3 with respect to the circumstances under which the
4 cabinet resigned furnishes powerful evidence to show
5 the real mental complexion, attitude and motives of
6 Mr. HIROTA in those trying days; and it also demon-
7 strates that Mr. HIROTA was not engaged at any time in
8 a conspiracy with the army.

9
10 SECTION 6

11 THE DECISIONS OF NATIONAL POLICIES DURING THE HIROTA
12 CABINET

13 37. The prosecution has claimed that a
14 series of decisions were made in 1936 which furnished
15 the whole backbone of the alleged conspiracies set
16 forth in the indictment. The prosecution referred
17 particularly to exhibits 978, 977, 215, 216, 704, 217,
18 and 979.⁷⁴ As exhibits 215 and 217 deal with the policy
19 toward North China, it will be more appropriate to treat
20 those exhibits under a separate section; and as ex-
21 hibit 216 is an excerpt taken from exhibits 977 and
22 979, the matter will be clarified by dealing with the
23 two latter exhibits and exhibit 704.
24

25 74. Tr. 9548, tr. 9542, tr. 2719, tr. 2720, tr. 7523,
tr. 2728, and tr. 9549.

75
"With respect to exhibits 977 and 979, deal-
ing with the principle of national policy, it should
be noted that the original draft (exhibit 977) pre-
sented by the army and navy on 30 June 1936 was consid-
ered at the Five Ministers Conference (exhibit 978),
and after amendment, was approved on August 11, 1936,
by the Prime, War, Navy, Finance and Foreign Ministers
(exhibit 979). Exhibit 704, "Foreign Policy of the
Empire," was decided on August 7, 1936, at the Conference
of Four Ministers: that is to say, the Premier, Foreign
Minister, War Minister, and Navy Minister. These docu-
ments, contrary to the claim of the prosecution, by no
means portray any decision to pursue an aggressive
policy in East Asia and the South Seas. A mere perusal
of the documents show that they are based entirely upon
considerations of a pacific nature and deal entire-
ly with defensive measures to insure the position of
Japan as a stabilizing influence in East Asia. The
Minister of the Navy clearly stated that the expression
appearing in exhibit 979 "Fundamental Principle of
National Policy," paragraphs 1-3, reading "We should
be prepared for Britain and America," did not mean that
Japan should regard England and America as enemies.
76
On the same occasion the Foreign Minister sounded a

75. Tr. 9542, tr. 9549.

76. Ex. 978, par. 3 (tr. 9,548)

1 warning that "Japan should not only be regardful of
2 keeping friendly relationship with England and America
3 but should strive further to assure a more concilia-
4 tory attitude than in ordinary circumstances." Ex-
5 hibit 704, paragraphs 3-4⁷⁷, "Foreign Policy of the
6 Empire," also demonstrates that the policy adopted had
7 no offensive significance against England and America.
8 Regarding the "South Seas" (exhibit 979), nothing
9 appears to indicate any intention with respect to ad-
10 vance by aggression or war. On the contrary, references
11 to the "South Seas" refer to peaceful economic ex-
12 ploitation and advancement of Japan's international
13 trade by ordinary trade procedures. For example,
14 exhibit 979 contains a paragraph, "For the further-
15 ance of our plan to achieve the social and economic
16 development of our Empire toward the South Seas, es-
17 pecially on the outer South Sea Islands area, we should
18 take a gradual and peaceful measure, always avoiding to
19 stimulate other nations" (paragraph 1); and exhibit
20 704, "Foreign Policy of the Empire," contains a sen-
21 tence: "We should be discreet not to stimulate the
22 powers concerned but try to efface their apprehension
23 towards our Empire, and we have to endeavor to make our
24
25 77. Tr. 7523.

progress gradually and peacefully" (paragraph 5).

1 Exhibit 704 also positively states with respect to the
2 Philippines that "If necessary, we shall not hesitate
3 to assure her neutrality": and with respect to the
4 Netherlands East Indies, "If necessary, we shall not
5 refuse to conclude a non-aggression treaty with Hol-
6 land" (paragraph 5). Moreover, in connection with
7 the Netherlands, it must be remembered that the Treaty
8 of Judicial Settlement, Arbitration and Conciliation,
9 although it had been signed on April 19, 1933, was
10 ratified on June 8, 1935, through the interest and
11 sponsorship of HIROTA as Foreign Minister in the OKADA
12 Cabinet; and that treaty took effect on August 12, 1935.

14 THE PRESIDENT: We will recess for fifteen
15 minutes.

16 (Whereupon, at 1445, a recess was
17 taken until 1500, after which the proceed-
18 ings were resumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Yamaoka.

MR. YAMAOKA: May it please the Tribunal, continuing:

At the time the policy decisions of 1936 were reached Japan felt that she was being menaced by the activities of the U.S.S.R. in Eastern Siberia and elsewhere. By 1935, the U.S.S.R. had developed a standing army of immense proportions, had moved a large army to Eastern Siberia along the Manchukuo border, had pushed through the double tracking of the Trans-Siberian Railroad through blizzard conditions and had otherwise assumed an uncertain attitude toward Japan. Moreover, the Japanese had suspected for a long time that the Soviet Union was straining to attack Japan by way of retaliation for 1905. Exhibit 979, paragraph 1 (3), shows that the Japanese national policy aimed at a defensive posture against that menace; and there is nothing in the document or in collateral circumstances to indicate that the Japanese Government adopted a policy for aggressive action against the U.S.S.R. or any other nation. Exhibit 704 "Foreign Policy of the Empire", No. 2 (Gists of Measures) states in this connection "Japan must be strictly

1 cautious towards the Soviet Union so as not to give
2 rise to further troubles of its own accord, but to
3 endeavor to solve pending problems by means of peace-
4 ful measures exclusively", and it also provided for
5 the establishment of committees to deal with demarca-
6 tion of boundaries and disputes arising therefrom; and
7 it also stipulated that a proper opportunity should be
8 seized to propose the creation of a non-armed zone
9 and expressed the desire of the Japanese Government to
10 conclude a non-aggression pact with the Soviet Union
11 in case important pending questions could be solved.
12 These facts and all the other evidence in the case
13 point only to the peaceful nature of the Japanese
14 policy toward the Soviet Union.

15 Further, the above exhibits contain provisions
16 for correlation between diplomatic and military mat-
17 ters; for example, Exhibit 979, paragraph 2, and the
18 opening phrase of Exhibit 704 show the efforts on the
19 part of the civil members of the Cabinet to check dip-
20 lomatic activities of the military, especially those
21 in China, which in the past on occasions had been taken
22 arbitrarily against the policy of the Government and
23 the Foreign Office. This is nothing more than an
24 effort to wipe out so-called "double diplomacy" which
25 in the past had constituted a serious obstacle to the

1 realization of the peaceful and conciliatory foreign
2 policy initiated by Mr. HIROTA. The statement of the
3 prosecution in this connection that "In HIROTA's mind
4 'national defense' did not stop at defending Japan or
5 resisting attack, but meant aggression", is, of course,
6 downright absurd; and in connection with the final sum-
7 mation of the prosecution, they carried the matter one
8 step further by converting the words "national defense"
9 appearing in the policy decisions to that of "war"
10 and in that connection advanced the wholly specious
11 argument that "diplomacy" and "war" sound better to-
12 gether, as bedfellows, in a single document than the
13 expressions "diplomacy" and "national defense". Of
14 course, there is nothing inconsistent in associating
15 diplomacy and national defense, a course pursued by
16 every power in the world. The following sections will
17 throw additional light upon the actual measures taken
18 by the HIROTA Cabinet to carry out its policy of peace
19 and conciliation with respect to all nations.
20

21 SECTION 7

22 SINO-JAPANESE RELATIONS DURING THE HIROTA CABINET

23 38. About a month after the formation of the
24 HIROTA Cabinet, Mr. ARITA was appointed to the post of
25 Foreign Minister. ARITA followed the conciliatory
foreign policy of HIROTA and stated in the Diet in May

of 1936 his intention to act on the basis of the HIROTA⁷⁸
"Three Principles" in dealing with China. ARITA's
position was also difficult in his relations with the
military. He steadfastly adhered to the fundamental
policy of peace between Japan and China although he had
to yield ground to the military to a certain extent in
subordinate points; and he knew, of course, that ultra-
nationalistic elements among the people, as well as
certain factions within the Army, which had been rising
since the Manchurian Incident and caused the "May 15"
and "February 26" Incidents, might ultimately cause a
general collision between the Japanese and Chinese
forces on the continent. The "Gist of Plans for Dealing
with North China" must be considered in the light of
those circumstances.

39. The original plan of the "Gist" (Ex. 215),⁷⁹
dated 13 January 1936, was a plan of the War Ministry
and, contrary to the allegation of the prosecution
Summation at FF-48, the Foreign Office had nothing
whatever to do with its preparation, although it was
submitted to the Foreign Office. This plan contains
some expressions which at first blush might be inter-
preted as being inconsistent with the HIROTA "Three
Principles". Moreover, there were not a few among the
(78. Ex. 2507, T. 20,965)
(79. T. 2,719)

~~Kwantung Army and the military authorities in China~~

1 who supported such opinions and policies as are ex-
2 pressed in Exhibit 761⁸⁰ and those elements were disposed
3 to hasten the establishment of an autonomous govern-
4 ment in North China in connection with defense against
5 the Soviet Union and Communistic activities within
6 China. The Foreign Office deemed it necessary to
7 reconsider and amend the "Gist" submitted by the War
8 Ministry in order to suppress such military activities
9 and inclination, and to that end the matter was sent
10 to a liaison conference of the Ministries concerned.
11 The "Gist" having already been decided by the War Min-
12 istry, it became almost impossible for the Foreign
13 Minister to kill it or even subject it to radical alter-
14 ation; but, nevertheless, as a result of the liaison
15 conference, some important amendments were made and
16 this made its appearance in the form of the "Second
17 Gist of Plans for Dealing with North China"⁸¹ (Ex. 217),
18 Which was a decision of August 11, 1936 of the War,
19 Navy, Foreign and Finance Ministries. The difference
20 between the first and second "Gist" is as follows:
21 The words "self-government of North China" found in
22 the first "Gist" (Ex. 215) were replaced by "sectional
23 government of North China" which implied a state of
24
25 (80. T. 7,830)
(81. T. 2,728)

1 autonomy of lower grade; however, here it must be
2 noted that the English translation of exhibit 217
3 has confused those two terms or expressions with each
4 other, but the original in Japanese established a clear
5 distinction between them. Further, in the second
6 "Gist", the following paragraph was added to convince
7 the Japanese military authorities in China that the
8 Japanese Government did not have the slightest inten-
9 tion to establish or assist in establishing an inde-
10 pendent government in North China: "We should strictly
11 avoid such acts as would be suspected of disapproving
12 China's territorial right of North China or of bring-
13 ing about an independent country free from the Nanking
14 Government or of making North China an extension of
15 Manchukuo" (Ex. 217, para. 1); and it also contained
16 a stipulation providing for the respect of the vested
17 interests of third powers within China (para. 6). Here
18 also it is important to notice that the English trans-
19 lation of exhibit 217 has inadvertently omitted the
20 clause "The vested interests of the third powers will
21 be respected." In short, it may be safely said that
22 the second "Gist", which was the only one ever adopted,
23 showed the intention on the part of the civil side of
24 the government to confine, as far as possible, the
25 activities of the military within bounds and it also

illustrates the army's own policy and attitude at the
1 time. However, the matter of overriding importance is
2 that the second "Gist" was decided at an inter-
3 ministerial conference in which HIROTA did not partici-
4 pate and it may be recalled that in August 1937 he as
5 Foreign Minister in the First KONOYE Cabinet offered
6 to undertake the dissolution of the Eastern Hopei
7 regimes in order to facilitate the truce in China as
8 evidenced by exhibits 3280-A and 3280-B. This effort
9 on the part of the Foreign Ministry to keep the army
10 within its harness also clearly reveals the tug going
11 on between the Supreme Command and the civil side of
12 the government. By no means does it show that the
13 Foreign Ministry or Mr. HIROTA, as Premier, was en-
14 gaged in any common plan or conspiracy with the army
15 or any other group in Japan.

17 SECTION 8

18 THE ANTI-COMINTERN PACT

19 40. HIROTA was Premier at the time the Anti-
20 Comintern Pact with Germany was signed on 25 November
21 1936. That pact was concluded, as its text clearly
22 shows, with the sole objective of preventing the spread
23 of Communism and it provided merely for the exchange of
24 information between the two countries for that purpose.
25 (82. T. 29,935)

1 The annexed secret protocol contained no stipulation of
2 an aggressive nature. The pact means exactly what it
3 says and nothing more, and such being the case, it has
4 no probative value or tendency to establish any of the
5 allegations of the Indictment. In fact the prosecu-
6 tion frankly stated that if the pact meant nothing more
7 than what it purported to be on its face the prosecu-
8 tion would concede it had no significance in this
9 trial. It was clearly within the competence of the
10 Japanese Government to make such an agreement. An
11 examination of the circumstances attending its negotia-
12 tion and conclusion makes it clear that the Japanese
13 Government had no aggressive intention whatever in
14 concluding the pact. Foreign Minister AKITA in a tele-
15 gram (Ex. 2614)⁸³ addressed to Ambassador MUSHAKOJI at
16 Berlin, dated 8 May 1936, which initiated the negotia-
17 tions, suggested only the conclusion of a vague agree-
18 ment for rapprochement between the two countries, but
19 it contained no concrete proposal of any kind. With
20 exhibit 3267,⁸⁴ however, the matter took more definite
21 shape. Foreign Minister AKITA showed this document to
22 War Minister TERAUCHI and obtained his agreement on 24
23 July 1936 (Ex. 3266).⁸⁵ On examination of exhibit 3267,
24
25 (83. T. 22,474)
(84. T. 29,885)
(85. T. 29,883)

1 it is manifest that the fundamental policy of the then
2 Japanese Government consisted in taking every precaution
3 not to provoke the Soviet Union into war by stimulating
4 her unduly; all this notwithstanding the Japanese keenly
5 felt the Communist menace. Moreover, that document
6 shows that careful consideration was given at the time
7 lest the agreement should cause a sense of uneasiness
8 on the part of third powers, especially Britain, and
9 at the same time also shows the Japanese policy to seek
10 a political agreement with Britain. According to that
11 document the tentative plan for the Anti-Comintern Pact
12 was submitted by the German side; the Japanese Govern-
13 ment amended it by restricting its scope to the end
14 that it might not be an obstacle to the maintenance of
15 peaceful relations with the Soviet Union. The evidence
16 shows that concurrently the Japanese Government planned
17 to make a similar agreement with Britain and that a
18 draft was actually in preparation at the time. Thus,
19 all the evidence shows the intention of the Japanese Gov-
20 ernment to conclude the Anti-Comintern Pact exclusively
21 from a defensive point of view and there is not the
22 slightest evidence in the case to show that the Japan-
23 ese Government intended to form a common front with
24 Germany against Britain, America or any other country.
25

41. The Anti-Comintern Pact merely provided
1 for a mutual exchange of information with respect to
2 Communistic activities; the secret agreement merely
3 provided that in case the Soviet Union should attack
4 "without provocation" neither side would take any
5 action which would lighten the burden of the Soviet
6 Union in a war of aggression which seems to be nothing
7 more than the traditional definition of a neutral in
8 case of belligerency; that is to say to refrain from
9 giving assistance in either a negative or positive
10 form to one of the belligerents. In the explanation
11 made to the Privy Council on the final draft of the
12 Pact⁸⁶, Mr. Hirota made it clear that "The object of
13 the present Pact was simply to make it an instrument
14 for preparing for checking the armed pressure of the
15 Soviet Union and Bolshevistic activities." On that
16 occasion he also declared that Japan should, of course,
17 refrain from taking any positive measures which might
18 aggravate relations with the Soviet Union, that Japan
19 would constantly give its most devoted attention to
20 the demarcation of the boundary lines between Japan,
21 Manchukuo and the Soviet Union, the settlement of
22 boundary disputes, and other measures to be taken by
23 way of adjustment of the relations between the two
24 countries; and that the promotion of friendly relations
25 (86. Ex. 484, Tr. 22,480)

1 with the United States and Britain should be eagerly
2 sought; and he concluded his explanation by emphasizing
3 that the conclusion of the Pact "in no way whatever
4 implied that Japan fully approved of Germany's
5 principles in respect to her internal affairs or that
6 Japan would act in concert with her."

7 Foreign Minister ARITA also gave a detailed
8 explanation to the Privy Council of the Communist
9 activities of the Communist Internationale in China
10 and Manchukuo and pointed out the increase in the
11 armed pressure of the Soviet Union in the Far East.
12 This Pact was well within the competence of the Jap-
13 anese Government to conclude; it contains nothing
14 against any principle of international law; it does
15 not offend against any principle of political morality
16 whether gauged from its text or the intention of the
17 Japanese Government in negotiating it.

18 42. Italy proposed about the same time to
19 conclude a similar pact between Japan and Italy⁸⁷.
20 The HIROTA Cabinet gave no consideration to that
21 proposal because it feared at the time it would have
22 an undesirable influence upon Anglo-Japanese relations.
23 However, at a later period, when a rapprochement which
24 Mr. HIROTA had so earnestly sought with Britain
25 (87. Ex. 2615 and 2616; Tr. 22,500 22,502).

1 offered no prospect of success because of the attitude
2 assumed by Britain and other powers upon the outbreak
3 of the China Affair, the Japanese Government looked
4 with more favor upon the proposal of Italy to conclude
5 a similar pact. In view of the circumstances of those
6 days the Government could no longer turn a deaf ear
7 to the Italian proposal. However, in order to minimize
8 the unfavorable repercussion upon Anglo-Japanese
9 relations, it was finally decided to admit participa-
10 tion by Italy in the pact without strengthening in any
11 respect the substance of the instrument; and an agree-
12 ment to that effect was signed between Japan, Germany
13 and Italy on 9 December 1937; however, Italy was never
14 a party to the annexed secret agreement and in fact
15 knew nothing about it.

16 43. The Anti-Comintern Pact was never used
17 by the Japanese at any time for any unjust objective
18 during the period when HIROTA was Premier or during
19 the time he was Foreign Minister in the First KONOYE
20 Cabinet. Likewise the existence of that Pact had
21 nothing whatever to do with the China Affair or the
22 use of the good offices of the German Ambassador in
23 an effort to restore peace with the Chinese. Sight
24 must not be lost here that America and Britain had
25 consistently adhered to their "cold shoulder" attitude

1 toward Japan ever since the Mukden Incident, that
2 they had done practically nothing in the form of con-
3 crete measures to grasp HIROTA's efforts ever since
4 September 1933 to work out a fundamental rapprochement;
5 in those circumstances it was but natural that Japan
6 in order to break international isolation would look
7 around in the world for those nations who were friendly
8 disposed toward Japan: but this is not to say that
9 HIROTA approved German ideology with respect to its
10 internal affairs⁸⁸. At the time the Anti-Comintern
11 Pact was signed there was nothing to indicate that
12 Germany was about to embark upon armament expansion
13 and certainly nothing was in the air to suggest the
14 future activities of Hitler. While it is true that
15 Germany had reoccupied the Rhineland in 1936, still
16 Germany was only reoccupying its own territory and
17 otherwise there was nothing in German policy or state-
18 ments as of 1936 to foreshadow its course of action
19 from 1938 onward.
20

21 Section 9

22 THE CHINA AFFAIR

23 44. Mr. HIROTA was resting at his summer
24 villa when telegraphic news arrived of the Marco Polo
25 Bridge Incident. At that time he had been Foreign
(88. Ex. 484, Tr. 5,957; see p. 7 of Exhibit)

1 Minister in the First KONOYE Cabinet (his last public
2 office) for about one month. There is not the faintest
3 suggestion anywhere in the trial that HIROTA expected
4 the outbreak of the Incident or that any plans had
5 been made by the Japanese Government by way of antici-
6 pation. He immediately returned to Tokyo and on
7 July 9, 1937 he attended the meeting of the Cabinet
8 Council which promptly decided upon a policy of non-
9 enlargement and speedy local settlement of the Incident;
10 and telegraphic instructions to that effect went out
11 to the Army⁸⁹. A satisfactory agreement was reached
12 between the Japanese and Chinese forces on the spot
13 on the night of July 11, 1937 and had it been carried
14 out by the Chinese would have settled the matter com-
15 pletely. In that settlement the Chinese accented full
16 responsibility, agreed to punish the responsible
17 officers and blamed the outbreak upon Communist in-
18 fluences⁹⁰. Under the peculiar internal system pre-
19 vailing in China, the placidity and slowness of the
20 Foreign Office of the Nationalist Government to move,
21 the existence of various shades of autonomy in
22 different areas notwithstanding the fact that the area
23 acknowledged allegiance to Chiang Kai-shek, all pointed
24 (89. Affidavit of HORINOCHI, Para 5,
25 Ex. 3260, Tr. 29,685)
(90. Ibid.)

1 to the fact that if the incident was to be confined
2 and promptly stopped that settlement on the spot
3 was the most efficacious method to attain that end
4 instead of the slower process of government to govern-
5 ment negotiations which would have delayed and made
6 more difficult a quick solution. The prosecution in
7 its summation criticizes this effort at local settle-
8 ment and suggests that it was another scheme on the
9 part of the Japanese to interfere in affairs in North
10 China at the local level; but that contention falls
11 flat when the uncontradicted evidence is considered
12 that instructions at the beginning of the incident
13 went out to HIDAHA, the Councillor at Nanking (the
14 Ambassador being then away), to take the matter up
15 directly with the Chinese Foreign Office to the end
16 that nothing would stand in the way of the policy
17 of non-enlargement and speedy local settlement⁹¹ and
18 when it is further considered that immediately upon
19 the decision of July 9, 1937, Mr. HIROTA personally
20 called in the Chinese Charge d'Affaires in Tokyo and
21 made the same representations to him. Hence, there
22 is not the slightest ground for the prosecution
23 contention that the Foreign Minister was ignoring the
24 (91. Affidavit of HIDAHA, Ex. 3273,
25 Tr. 29,901).

1 Nationalist Government of China in the effort to arrive
2 at a speedy local settlement⁹².

3 45. As previously stated, the Chinese showed
4 no good faith about carrying out the settlement agree-
5 ment arrived at on the night of July 11, 1937, and for
6 several weeks thereafter the days were extremely un-
7 certain. During those several weeks small clashes
8 occurred.

9 Unfortunately, the situation, which it had
10 been confidently expected in Tokyo would calm down,
11 grew worse by leaps and bounds. HIDAHA at Nanking
12 asked the Chief of the Chinese Foreign Office to
13 appreciate the efforts of Japan for a quick solution
14 and therefore not to interfere with the agreements
15 made on the spot and his full negotiations at Nanking
16 are explained in his testimony⁹³. As the Chinese
17 Foreign Office stuck to abstract discussions and
18 did nothing concrete to solve the North China situ-
19 ation, HIDAHA turned to personal negotiations with
20 Mr. Chang Chung, Governor of Szechwan Province, who
21 was a powerful figure in the Chinese Government, a
22 confidant of Chiang Kai-shek, and presently Premier
23 of China, and an agreement was reached between the two
24
25 (92. Affidavit of HORINOUCI, Ex. 3260,
Tr. 29,682)
(93. Ex. 3273, Tr. 29,901)

1 on July 27, 1937 to settle the disturbance on the
2 basis of mutual evacuation of the opposing forces; but
3 the agreement came too late to be carried out. The
4 conflict on the spot was already spreading over more
5 ground. While all these negotiations between the Chinese
6 and the Japanese were being carried on, diplomatic
7 representatives of Britain, America and other powers
8 in Nanking were kept constantly informed by HIDA⁹⁴KA of
9 the negotiations . . . Certainly the Foreign Office
10 would never have gone to such lengths had it been part
11 of a common plan or conspiracy to initiate a war of
12 aggression against China or any part of that country
13 and all these details reinforce the uncontradicted
14 evidence that the Foreign Ministry was making a sincere
15 and determined effort to settle the matter without the
16 loss of a single day. About the time the agreement
17 had been reached with Chang Chung, the Nationalist
18 Government admittedly was moving huge armies day by
19 day to the area of conflict in North China.
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(94. Ibid.)

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46. At the Cabinet Council meeting of
1 July 11, 1937 when the cabinet had no information what-
2 ever that a local settlement had been or would be
3 reached on the spot, although the actual agreement
4 subsequently reached on the night of July 11 proved
5 abortive, the War Minister proposed that authority be
6 granted to make preliminary preparations for re-
7 enforcement in event the situation got worse, and as
8 the rest of the Cabinet Council demurred, the War Minis-
9 ter went on to explain that without authorization to
10 make those preliminary preparations he could not be
11 held responsible for the protection of the garrison in
12 the Peiping and Tientsin areas, not to say anything
13 about the protection of Japanese lives and property in
14 that area. Whereupon, the Cabinet Council granted
15 permission to make preliminary preparations but on
16 that occasion the cabinet reached a full understanding
17 that in case any troops should be dispatched to North
18 China the object would be for the sole purpose of
19 protecting Japanese residents and forces in North
20 China. Of course, this understanding in the council
21 about preliminary preparation was not publicized because
22 of fear that it might aggravate the situation; and it
23 was nothing more than a preliminary preparation against
24 the worst. The situation having gotten appreciably
25

1 worse on July 20, 1937, and it becoming increasingly
2 apparent that the Chinese were unwilling or unable to
3 carry out the local settlement of July 11, 1937, the
4 Cabinet Council, having in mind all the long-standing
5 background in China, which had been full of turmoil,
6 uncertainty and tears, authorized the War Minister on
7 July 20, 1937 to prepare for the mobilization of three
8 home divisions for dispatch to China in the face of
9 the intense situation then prevailing. Here the
10 Tribunal must remember that three home divisions would
11 not constitute more than 45,000 men and as the Chinese
12 had already begun the movement of at least 200,000
13 troops toward North China there could not have been
14 the faintest idea in the minds of the cabinet that the
15 dispatch of three home divisions would constitute a
16 "punitive" expedition or anything calculated to thrash
17 the Chinese. It was simply a self-defense force
18 which, while it might hold its own against overwhelming
19 numbers of Chinese troops, could not possibly go along
20 to wage a war of aggression against China. Between
21 July 12 and 26th, the situation became extremely
22 aggravated, the Langfang Incident and other fighting
23 broke out in rapid succession; and on July 27, 1937
24 orders were issued for the mobilization of three home
25 divisions in Japan proper. Under the exceedingly

1 complicated situation then existing in China, the
2 safety of Japanese nationals and legitimate property
3 interests was seriously endangered. The Foreign Office
4 immediately increased the staff, chiefly minor offi-
5 cials, in the Japanese diplomatic and consular offices
6 in North China. ⁹⁵ This increase in the diplomatic staff
7 was quite proper in view of the possible increase of
8 business in those offices arising out of the protection
9 of Japanese residents and legitimate property rights
10 under emergency conditions. The Japanese Government
11 thought it had the same right which had been exercised
12 since time immemorial to protect its nationals and
13 their legitimate property interests. Such a principle
14 has been recognized in international law for many
15 generations. History is replete with many examples.
16 The dispatch of troops under the circumstances existing
17 in North China in late July 1937 does not constitute
18 an aggressive act in international law.

19 47. In July 1937, HIROTA assembled the
20 directors in the Foreign, War and Navy offices to study
21 a plan with respect to terms of truce with China; the
22 plan was finally approved on August 7, 1937 by the
23 ministers of those three departments, was approved
24 also by KONOYE, the Premier, and forwarded to the
25 95. Exhibit 260 (Tr. 3486).

Japanese authorities in China. These truce terms were
1 worked out with the firm intention of "taking one big
2 stride toward the improvement of Sino-Japanese relations
3 with the incident as the turning point." With respect
4 to these terms the Foreign Minister stated "The broad-
5 minded policy of our government will probably be beyond
6 the expectation of the Chinese themselves and is worthy
7 of winning the respect of the whole world for the fair
8 and disinterested attitude of our Empire."⁹⁷ The truce
9 terms aimed mainly at the establishment of a non-armed
10 zone from which both Chinese and Japanese forces would
11 be evacuated; they contained no territorial demand,
12 no demand for reparation or indemnities, and otherwise
13 contained nothing to which nations with peaceful incli-
14 nations could take exception.⁹⁸ The terms also took
15 into account and respected the previous conditions of
16 China over a long period of time in order to render it
17 easy for China in view of its internal situation to
18 accept the terms; that is to say, the Japanese Govern-
19 ment offered to undertake, so far as it could, the
20 dissolution of the eastern Hopei regime and to assist
21 in placing that regime under the administration of the
22 Nanking Government;⁹⁹ the provision with respect to
23
24

25 96. Ex. 3260, Clause 11 (Tr. 29,682).

97. Ex. 3280 (Tr. 29,935).

98. Ex. 3280-A (Tr. 29,935).

99. Ex. 3280-A, para. b-3 (Tr. 29,935).

the eastern Hopei regime, the most conciliatory
feature, was decided in spite of army opposition. 100

In addition to the truce terms, the "Outline of the
Plan for Over-all Adjustment of Sino-Japanese Rela-
tions," which included political and economic issues,
was transmitted by wire to the Japanese Ambassador in
China; but here it is of paramount importance for
the Tribunal to notice that this plan for over-all
adjustment of relations was to be handled independently
of the truce, which the Japanese so eagerly sought.

This decision of the Japanese Government and the fact
that the government never entertained the idea of
continuing the fighting until an over-all adjustment
of relations was agreed upon by the Chinese is set
forth in clear and unambiguous language in the instruc-
tion of the Foreign Office to the Ambassador. 101

In that instruction it was stated, among other things,
"It would be most desirable to carry it (over-all
adjustment of relations) on side by side with the
truce parley, if there is a prospect of quick agreement,
however, it is extremely undesirable that the truce
parley should be delayed on account of the negotiation
for the adjustment of Sino-Japanese relations, causing
unexpected complications and setting all to naught.

100. Exhibit 3280-A, para. 3 (Tr. 29,935).

101. Exhibit 3280-B-4 (Tr. 29,942).

1 You are requested to bear this point particularly in
2 mind." This shows that the settlement of political
3 and economic issues was not a prerequisite to the
4 negotiation of a truce; and also shows that Japan did
5 not press any unjust political demand on China by
6 taking advantage of the conflict. No one would doubt
7 that the plan for truce and the plan for over-all
8 adjustment of Sino-Japanese relations, if the opportunity
9 arose and could be quickly realized, were under
10 the prevailing circumstances extraordinarily conciliatory.
11 The difficulty of HIROTA, as Foreign
12 Minister, in working out that kind of a program against
13 strong views entertained within the army can be gauged
14 by the fact that only a few leaders in the army were
15 informed of the terms.¹⁰² Here it will be noted that
16 the proposal for over-all adjustment contained a clause
17 relative to Manchoukuo as one of the political issues
18 outstanding; however, the plan did not involve any
19 demand that China should "recognize" Manchoukuo; and
20 following the lines of the Wan-ARITA talk of April 18,
21 1934, and of the HIROTA "Three Principles,"¹⁰³ the plan
22 merely proposed to China "to make a tacit promise not
23 to make an issue of Manchoukuo henceforth."
24

25 102. Ex. 3280-D (Tr. 29,935).

103. Ex. 3243 (Tr. 29,569), Ex. 3254 (Tr. 29,625).

48. Immediately after the Marco Polo Bridge
1 Incident broke out, Foreign Minister HIROTA sent
2 several instructions to Consul-General OKAMOTO at
3 Shanghai to the effect that "The Government is main-
4 taining the policy of local solution and of non-
5 enlargement of this incident to Shanghai." This derived
6 from the fear that the trouble would spread to other
7 parts of China, especially to the Shanghai district,
8 the economic center in Central China, where there were
9 large numbers of Japanese and foreign residents and
10 heavy Japanese and foreign investments. ¹⁰⁴ Despite
11 the strenuous efforts exerted by Consul-General OKAMOTO,
12 the situation in Shanghai grew rapidly worse toward
13 the beginning of August 1937. About August 9, 1937
14 Lieutenant OYAMA was murdered by the Chinese and that
15 incident intensified the feeling on both sides in
16 Shanghai; the Chinese Army had already moved into the
17 non-military zone established by the cease-fire agree-
18 ment which settled the Shanghai Incident of 1932; and
19 altogether the situation grew so tense that by Aug-
20 ust 11, 1937 Chinese troops began heavy firing into
21 the Japanese settlement of Shanghai which in turn
22 precipitated a violent clash between the forces. This
23 was a two-fold disaster: first, because the issue which
24 104. Ex. 2515 (Tr. 21,145) and Tr. 29,931.
25

started with a local clash in North China suddenly

turned into large-scale hostilities between the two
 1 nations; and second, the increased antipathy between
 2 the two nations made it more difficult to work out a
 3 peaceful solution. All this transpired notwithstanding
 4 the fact that neither the Japanese Army nor population
 5 at home had the slightest enthusiasm about engaging
 6 the Chinese in armed conflict. The situation was aptly
 7 described by Ambassador Grew in his diary wherein he
 8 stated that the Japanese had no "stomach" for a war
 9 with China but would bear the inevitable if necessary. 105
 10 The outbreak of the Shanghai Incident made it impossible
 11 for Ambassador KAWAGOE and Kao Tsun-Wu, Director of
 12 the Asiatic Bureau of the Chinese Foreign Office, to
 13 work out a peaceful settlement on the basis of the
 14 program decided by the cabinet at the beginning of
 15 August 1937.
 16

17 Foreign Minister HIROTA, not being satisfied
 18 with the official negotiations, called upon outside
 19 help to assist in working out peace with China and he
 20 sought men who had influence in China with influential
 21 Chinese to assist in that direction. To that end
 22

105. See Grew Diary, p. 214: "There is no discernible
 23 enthusiasm among the Japanese Government or people for
 24 war." See also Sir Robert Craigie's Behind the Japan-
 25 ese Mask, p. 50: "Apart from the army there was little
 enthusiasm in Japan for this 'incident' which was
 assuming such large proportion."

1 he dispatched Mr. FUNATSU, an ex-diplomat, businessman
2 and outstanding authority on China, to Shanghai in
3 August 1937¹⁰⁶ in order to conduct peace negotiations
4 in secrecy with Kao Tsun-Wu.¹⁰⁷

5 THE PRESIDENT: Mr. Yamaoka, I notice you
6 refer to the diary of Mr. Grew, but you do not mention
7 exhibit numbers. Does that mean that you refer to
8 something that is not in evidence? The same applies
9 to Sir Robert Craigie's diary. However, we are going
10 to disregard everything not in evidence; so you are
11 only wasting time reading it, if you are reading
12 material not in evidence.

13 Proceed to read, Mr. Yamaoka.

14 MR. YAMAOKA: I will state, if your Honors
15 please, that the reference footnote 105 is not in
16 evidence.

17 The peace terms necessary to discharge his
18 mission were also plainly set forth and contained no
19 indication whatever of an aggressive intention toward
20 China.¹⁰⁸ The details of this arrangement are also
21 set forth in the testimony of OKAMOTO.¹⁰⁹ In addition,
22 HIROTA dispatched former Foreign Minister ARITA, one
23 of his reliable friends, to China for the purpose of
24

25 106. Ex. 3275 (Tr. 29,916).

107. Ex. 3276 (Tr. 29,916).

108. Ex. 3277 (Tr. 29,921).

109. Ex. 3274 (Tr. 29,916).

1 having talks with some of the leaders in China for the
2 establishment of a truce. Here again the idea was the
3 working out of a truce, not the working out of an over-
4 all political adjustment, unless it could be rapidly
5 accomplished with the full concurrence of the Chinese.
6 Nothing in connection with the dispatch of those
7 emissaries for peace even intimates that China would
8 be required to "recognize" Manchoukuo as a prerequisite
9 to peace. While ARITA went to North China, his mission
10 was frustrated by the outbreak of the Shanghai fighting
11 and he was compelled to return home.¹¹⁰ These efforts
12 for peace on both an official and unofficial plane
13 on the part of the Japanese were set at naught by the
14 objective circumstances which arose from the widespread
15 fighting. No fair-minded person can suggest that
16 HIROTA omitted any practical measures in those days
17 which offered any prospect of realizing peace. The
18 concrete steps taken by Japanese diplomatic authorities
19 in China both before and after the outbreak of the
20 Shanghai conflict are comprehensively described in
21 the affidavits of OKAMOTO¹¹¹ and HIDAKA.¹¹² That testi-
22 mony also shows that the Japanese diplomatic authorities
23

24 110. Affidavit of HORINOUCHI, para. 13 (Tr. 29,694).

25 111. Ex. 2515 (Tr. 21,145).

112. Ex. 3273 (Tr. 29,901).

1 during all the negotiations to effect a truce kept
2 close relations with the representatives of Britain,
3 America, Germany, Italy and France, all of whom were
4 making efforts to save the situation. The cabinet
5 decision of reinforce the Japanese garrison in Shanghai
6 in those tense days was not in the least inconsistent
7 with the effort of HIROTA to work out peace with the
8 Chinese.¹¹³

9 49. As previously described, negotiations
10 between the two nations became more and more difficult
11 by reason of the spreading conflict and aggravated
12 situation. On the other hand, public opinion in Japan,
13 as well as opinion in military circles, gradually
14 stiffened toward the Chinese and the view came to be
15 held in military circles that it would not tolerate
16 third power interference or official mediation in the
17 issue; that is to say, the opinion came to be held in
18 military circles in those days that nothing short of
19 a direct settlement with the Chinese would serve any
20 useful purpose; and thereby the Foreign Minister was
21 placed in an extremely delicate position in pursuing
22 methods for peace. In these circumstances, HIROTA,
23 after having consulted KONOYE, the Premier, and the
24 Ministers of War and Navy, decided to ask the good
25 113. Tr. 29,764 et. seq.

1 offices of third powers in order to bring about a truce
2 and, if possible, an over-all adjustment of relations.
3 To this end, HIROTA accepted the previously-offered
4 good offices of the British Ambassador, Sir Robert
5 Craigie, to extend to China the Japanese terms decided
6 in early August 1937.¹¹⁴ HIROTA also informed frankly
7 United States Ambassador Grew on 1 September of the
8 peace terms which the Japanese Government had proposed
9 to the Chinese Ambassador.¹¹⁵

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24 114. Testimony of HORINOUCI (Tr. 29,766-70).

25 115. Ex. 3716-B (Tr. 37,005).

1 50. About September 25, 1937, the Japanese
2 Government stated that it could not accept the re-
3 quest of the League of Nations for participation in
4 the committee of inquiry. It was perfectly obvious.
5 that the Foreign Minister, as one member of the
6 government, could not give his consent to the request
7 because Japan, having already withdrawn from the
8 League, had been holding firmly to a policy not to
9 take part in any political undertakings of the League.
10 In October and November of 1937 Japan received an
11 invitation to the Brussels Conference from the
12 Belgium Government, which it was obliged to decline
13 because of the internal circumstances within Japan
14 and the Foreign Office construction of the Nine-Power
15 Pact. HIROTA declined the invitation only after
16 having consulted various important persons with
17 respect to the problem of Japan's participation in
18 the Brussels Conference and he stated openly that
19 there was scarcely any objection among the leaders
20 of the political parties about refusing the invita-
21 tion.^{116.} In the light of the actual situation among
22 Japanese people generally, there was strong opposition
23 attending the Brussels Conference because of the
24 deeply entrenched view that the invitation was a
25

1 virtual extension of the League's political maneuvers.
2 In other words, it was virtually a unanimous public
3 opinion that Japan should not attend the Brussels
4 Conference because it was widely felt that its decision
5 had already been cut and dried. Consider also that
6 the invitation arose under the Nine-Power Pact and
7 was extended under Article 7 of that Pact which the
8 Japanese Foreign Office construed, on the basis of
9 the views expressed at the conference, as merely
10 requiring communication through normal diplomatic
11 channels and not as requiring attendance at a formal
12 conference.^{117.} Therefore, there is nothing in con-
13 nection with the declination of the invitation to the
14 Brussels Conference which in any way shows an inten-
15 tion on the part of Mr. HIROTA to neglect or evade
16 the duties of Japan under international treaties.
17 Moreover, it is just a matter of plain common sense
18 that HIROTA could not overrule what was practically
19 unanimous Japanese opinion at every level against
20 participation.
21

22 51. In further efforts to work out peace
23 with the Chinese, HIROTA continuously from early
24 September 1937 through January 14, 1938 held frequent
25 conferences with the Ambassadors of the United States
117. Affidavit of HORINOUCHI, para.15 (T. 29696).

1 Britain, China, Italy and Germany looking toward the
2 effective use of good offices. In this connection it
3 must be borne in mind that during the whole period
4 (July 7, 1937 until at least the end of December 1937)
5 the Chinese Ambassador remained in Tokyo and during
6 these five months, in so far as the record shows,
7 never offered one constructive idea toward a truce or
8 readjustment of Sino-Japanese relations, and above
9 all never once suggested a direct meeting between
10 Chinese and Japanese delegates for a frank discussion;
11 and during the same period not one single constructive
12 idea emanated from the Chinese Foreign Office toward
13 peace. Expressed otherwise, all the initiative toward
14 peace came from the Japanese side. In September 1937
15 HIROTA had a candid conversation with Ambassador Grew
16 with respect to the actual demands of Japan for a
17 fundamental rapprochement, which is recorded in the
18 affidavit of Ambassador Grew; 118. there Japan wanted to
19 effect a truce and with respect to terms for a perma-
20 nent rapprochement merely asked for economic coopera-
21 tion, not preference; cooperation against Communism;
22 suppression of anti-Japanism; and pointed out above
23 all that China would not be required to "recognize"
24 Manchoukuo but Japan did ask that China grant something
25 118. Exhibit 3716-B (T. 37005).

1 like a de facto recognition of the existence of Man-
2 choukuo as a legal unity. In the face of the reali-
3 ties of the situation and the long lapse of time, no
4 fair-minded person could find any fault with those
5 proposals of HIROTA; and indeed the American Ambassa-
6 dor today finds no fault with them because he has
7 been willing to come forward out of a long-standing
8 friendship and admiration for HIROTA to point out
9 the true facts in connection with the position of
10 the Japanese Government in those days. So the argument
11 of the prosecution is without any basis when they say
12 that Japan was not willing to stop fighting save and
13 except on condition that China would "recognize"
14 Manchoukuo. The United States was unwilling to use
15 its good offices unless requested by both sides; so
16 the friendly cooperation extended by Ambassador Grew
17 came to naught after all because the Chinese showed
18 no interest. However, that may be, it is certain
19 that Ambassador Grew told the Chinese what were the
20 real intentions of the Japanese. In October 1937
21 Ambassador Craigie, who was an exceedingly industrious
22 and friendly man, offered the good offices of Britain
23 which HIROTA immediately accepted. He offered
24 Ambassador Craigie a proposal of peace on his own
25 initiative and proposed a fundamental rapprochement

1 on the basis of the plan decided early in August of
2 1937, before the fighting had ever spread to the
3 Shanghai area. As Ambassador Craigie gave his con-
4 sent to the proposal and saw nothing in those terms
5 which was repugnant to the British sense of respecta-
6 bility and decency in international dealings, he
7 conducted negotiations which extended over the next
8 two months, but those negotiations proved fruitless
9 in the end because of an objection raised by the army
10 with respect to the intervention of Britain in the
11 matter.^{119.} It will be recalled here that there was
12 a strong anti-British feeling prevailing in Japan in
13 the early part of November 1937; and in fairness it
14 ought to be said that the attitude of the army might
15 have been a reflection of the public feeling. At this
16 point also consider HIROTA's summons to the indus-
17 trialists in Japan in November 1937 where at a tea
18 party he successfully sought their cooperation to
19 suppress the anti-Britain wave then prevailing in
20 Japan and pointed out that Britain was the only
21 "bridge" through which Japan could hope to work out
22 peace with China in the conditions of those days.^{120.}
23 Of course, this anti-Britain wave in Japan derived from
24
25 ^{119.} Affidavit of HORINOUCHI, para. 16(T. 29699).
^{120.} Exhibit 3784-A (T. 37695).

1 the joint declaration of the powers arising out of
2 the Brussels Conference that the powers would take
3 "united action" or something analagous to it against
4 Japan which in turn was played up by the Japanese
5 press.

6 Exhibit 3268 deals with this question and
7 contains two documents. ¹²¹ The first one is connected
8 with the point of view of the War Ministry regarding
9 the attitude to be taken by Japan as to the mediation
10 or intervention in the China Affair by third powers
11 or the League of Nations. It should, however, be
12 remarked that, in view of the fact that the army had
13 a strong voice in everything regarding the settlement
14 of the China Affair, the point of view as expressed
15 in the present document would have had important
16 bearings on the attitude of the Japanese Government
17 vis-a-vis the question.

18 The second document is the decision by the
19 War, Navy and Foreign Ministries on the same subject,
20 taken on October 22, 1937. No doubt this decision
21 was influenced to a large extent by the view of the
22 War Ministry as expressed in the previously mentioned
23 document. However, it can clearly be perceived, if
24 we read between the lines of the present decision,
25 121. Exhibit 3268 (T. 37236).

1 that the good offices of any third power, including
2 the United States and Britain, were never rejected,
3 but even welcomed. Although it was stated in the
4 present decision that a "hasty intervention" could
5 not be accepted and that good offices would be ac-
6 cepted only when the aims of the military operations
7 were nearly achieved, it should be pointed out that
8 informal negotiations with third powers with a view
9 to bringing peaceful settlement on the China Affair
10 were actually in progress at that time. It is true
11 that Mr. HIROTA, as a cabinet member, could not accept
12 the invitation to the Brussels Conference in defiance
13 of the categorical opposition on the part of the army,
14 the navy and even of the political parties, but his
15 effort for the peaceful solution of the China Affair
16 through negotiations with third powers were in no way
17 retarded by the present decision of the three minis-
18 tries. Mr. HIROTA as Foreign Minister approved of
19 this decision which was written in such phraseology
20 as would save the face of the army, because he did
21 not regard it as an obstacle to the execution of his
22 policy of amicable settlement of the affair. Various
23 evidences show, at least, that he put such interpre-
24 tation on the decision and pursued his effort in the
25 same direction as ever.

1 THE PRESIDENT: We will stop at this point.
2 We will adjourn until half-past nine tomorrow morning.

3 (Whereupon, at 1600, an adjournment
4 was taken until Thursday, 18 March 1948, at
5 0930.)

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